



# Journal of the House

State of Indiana

113th General Assembly

First Regular Session

Twenty-fifth Meeting Day

Wednesday Morning

February 26, 2003

The House convened at 10:30 a.m. with the Speaker in the Chair.

The invocation was offered by Reverend Anastasios Gounaris, Holy Trinity Church, Indianapolis, the guest of Representative David Orentlicher.

The Pledge of Allegiance to the Flag was led by Representative Russell L. Stilwell.

The Speaker ordered the roll of the House to be called:

T. Adams	Kromkowski
Aguilera	Kruse
Alderman	Kuzman
Austin	LaPlante
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Becker	Liggett
Behning	J. Lutz
Bischoff	Lytle
Borror	Mahern
Bosma	Mangus
Bottorff	Mays
C. Brown	McClain
T. Brown	Moses
Buck	Murphy
Budak	Neese
Buell	Noe
Burton	Orentlicher
Cheney	Oxley
Cherry	Pelath
Chowning	Pflum
Cochran	Pierce
Crawford	Pond
Crooks	Porter ☐
Day ☐	Reske
Denbo	Richardson
Dickinson	Ripley
Dobis	Robertson
Duncan	Ruppel
Dvorak	Saunders
Espich	Scholer
Foley	V. Smith
Frenz	Stevenson
Friend	Stilwell
Frizzell	Stine
Fry	Stutzman
GiaQuinta	Summers
Goodin	Thomas
Grubb	Thompson
Gutwein	Torr
Harris	Turner
Hasler	Ulmer
Heim	Weinzapfel
Herrell	Welch
Hinkle	Whetstone
Hoffman	Wolkins
Kersey	D. Young
Klinker	Yount
Koch	Mr. Speaker

Roll Call 216: 98 present; 2 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

## HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Thursday, February 27, 2003, at 10:30 a.m.

RESKE

Motion prevailed.

## MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 122, 160, 179, 242, 247, 304, 320, 337, 384, 396, 420, 449, 454, 504, 515, and 533 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

## ENGROSSED HOUSE BILLS ON THIRD READING

### Engrossed House Bill 1980

Representative Avery called down Engrossed House Bill 1980 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 217: yeas 95, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Lawson, Hume, and Bowser.

### Engrossed House Bill 1968

Representative Thompson called down Engrossed House Bill 1968 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 218: yeas 95, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors : Senators Ford and Lanane.

### Engrossed House Bill 1897

Representative Dvorak called down Engrossed House Bill 1897 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning property.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 219: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Zakas and Broden.

**Engrossed House Bill 1896**

Representative Dvorak called down Engrossed House Bill 1896 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass? Representative Ripley was excused from voting.

Roll Call 220: yeas 51, nays 43. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Zakas and Broden.

**Engrossed House Bill 1864**

Representative Robertson called down Engrossed House Bill 1864 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 221: yeas 98, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Bray and Sipes.

**Engrossed House Bill 1826**

Representative Leonard called down Engrossed House Bill 1826 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 222: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Dillon and Hume.

**Engrossed House Bill 1804**

Representative Alderman called down Engrossed House Bill 1804 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulations; consumer sales and credit.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 223: yeas 66, nays 29. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Long.

**Engrossed House Bill 1802**

Representative Kuzman called down Engrossed House Bill 1802 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning alcoholic beverages and tobacco.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass? Representative Murphy was excused from voting.

Roll Call 224: yeas 53, nays 40. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Alting and Rogers.

The Speaker yielded the gavel to the Deputy Speaker Pro Tempore, Representative Harris.

**Engrossed House Bill 1786**

Representative Moses called down Engrossed House Bill 1786 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 225: yeas 87, nays 6. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Long and Kenley.

**Engrossed House Bill 1769**

Representative Richardson called down Engrossed House Bill 1769 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 226: yeas 89, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Jackman and Craycraft.

**Engrossed House Bill 1757**

Representative Klinker called down Engrossed House Bill 1757 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 227: yeas 82, nays 9. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Miller, Gard, Simpson, and Rogers.

Representative Day, who had been excused, was present.

The Deputy Speaker Pro Tempore yielded the gavel to the Speaker.

**Engrossed House Bill 1684**

Representative Liggett called down Engrossed House Bill 1684 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 228: yeas 34, nays 63. The bill was defeated.

The House recessed until the fall of the gavel.

**RECESS**

The House reconvened at 2:10 p.m. with the Speaker in the Chair.

With consent, the House returned to bills on second reading.

## HOUSE BILLS ON SECOND READING

### House Bill 1858

Representative Harris called down House Bill 1858 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1858-1)

Mr. Speaker: I move that House Bill 1858 be amended to read as follows:

Page 2, line 9, delete "owned or leased" and insert "**owned, leased, or used**".

Page 2, line 9, delete "mill;" and insert "**mill or an entity that is at least fifty percent (50%) owned by an affiliate of an integrated steel mill;**".

(Reference is to HB 1858 as printed February 19, 2003.)

HARRIS

Motion prevailed. The bill was ordered engrossed.

### House Bill 1822

Representative Reske called down House Bill 1822 for second reading. The bill was reread a second time by title.

#### HOUSE MOTION (Amendment 1822-1)

Mr. Speaker: I move that House Bill 1822 be amended to read as follows:

Page 4, line 38, after "**insurer**" insert "**or an agent or agency that the appointee reports to on behalf of the insurer**".

(Reference is to Hb 1822 as printed February 19, 2003.)

TORR

Motion prevailed. The bill was ordered engrossed.

### House Bill 1751

Representative Mays called down House Bill 1751 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1751-1)

Mr. Speaker: I move that House Bill 1751 be amended to read as follows:

Page 3, line 11, delete "record" and insert "**record:**

(A)".

Page 3, line 13, delete "known." and insert "**known; or (B) if entered more than six (6) months after the date of the occurrence or the date that the fact becomes known, the employer believes that the records separately or together display facts about the employee that may be used in a determination as described in section 3(1) of this chapter.**".

Page 3, line 18, delete "two (2) times" and insert "**one (1) time**".

Page 3, line 26, delete "If an employee demonstrates that the employee is unable to".

Page 3, delete lines 27 through 31.

Page 3, line 32, delete "Sec. 7. (a)".

Page 3, run in lines 26 through 32.

Page 3, line 32, delete "section 6 of".

Page 3, line 33, delete "this chapter," and insert "**subsection (a),**".

Page 3, line 33, after "obtain" insert "**without cost to the employee**".

Page 3, delete lines 36 through 39, begin a new paragraph and insert:

**"Sec. 7. If an employer enters a record into a personnel record under section 5(7)(A) or 5(7)(B) of this chapter, the employer must notify the employee of the entry into the personnel record within three (3) calendar days of the entry. The procedures set forth in section 9 of this chapter control a disagreement by the employee with information contained in the entry.**

**Sec. 8. Notwithstanding the limitations of review of a personnel record set forth in section 6(a)(2) of this chapter, if an employee is notified that any disciplinary action, including, but not limited to:**

- (1) suspension;
- (2) demotion; or

#### (3) termination;

**is being considered, the employee may request, in writing, a copy of the employee's personnel record, subject to the exceptions contained in section 5 of this chapter. The employee's written request for the personnel record must include the address to which the personnel record is to be delivered. The copy shall be provided without cost to the employee and within five (5) work days or at the time of the disciplinary action, whichever is earlier."**

Page 3, line 40, delete "8." and insert "**9.**".

Page 4, line 16, delete "9." and insert "**10.**".

Page 4, line 19, delete "10." and insert "**11.**".

Page 4, line 26, delete "11. The" and insert "**12. For a violation of this chapter, the**".

Page 4, line 26, delete "employee prevailing in an" and insert "**employee:**".

Page 4, delete line 27.

Page 4, line 28, delete "For a violation of this chapter,".

Page 4, line 28, delete "damages plus costs." and insert "**damages;**".

Page 4, line 29, delete "For a willful and knowing violation of this chapter, an" and insert "**reasonable attorney's fees; and**

**(3) costs.**".

Page 4, delete lines 30 through 35.

(Reference is to HB 1751 as printed February 19, 2003.)

MAYS

Motion prevailed. The bill was ordered engrossed.

### House Bill 1749

Representative Fry called down House Bill 1749 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1749-2)

Mr. Speaker: I move that House Bill 1749 be amended to read as follows:

Page 2, between lines 20 and 21, begin a new paragraph and insert:

**"SECTION 2. IC 27-8-5-16.5, AS AMENDED BY P.L.96-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16.5. (a) As used in this section, "delivery state" means any state other than Indiana in which a policy is delivered or issued for delivery.**

**(b) Except as provided in subsection (c), (d), or (e), a certificate may not be issued to a resident of Indiana pursuant to a group policy that is delivered or issued for delivery in a state other than Indiana.**

**(c) A certificate may be issued to a resident of Indiana pursuant to a group policy not described in subsection (d) that is delivered or issued for delivery in a state other than Indiana if:**

**(1) the delivery state has a law substantially similar to section 16 of this chapter;**

**(2) the delivery state has approved the group policy; and**

**(3) the policy or the certificate contains provisions that are:**

**(A) substantially similar to the provisions required by:**

**(i) section 19 of this chapter;**

**(ii) section 21 of this chapter; and**

**(iii) IC 27-8-5.6; and**

**(B) consistent with the requirements set forth in:**

**(i) section 24 of this chapter;**

**(ii) IC 27-8-6;**

**(iii) IC 27-8-14;**

**(iv) IC 27-8-23;**

**(v) 760 IAC 1-38.1; and**

**(vi) 760 IAC 1-39.**

**(d) A certificate may be issued to a resident of Indiana under an association group policy, a discretionary group policy, or a trust group policy that is delivered or issued for delivery in a state other than Indiana if:**

**(1) the delivery state has a law substantially similar to section 16 of this chapter, including the requirements that apply to association groups, particularly the requirement that the association must be organized and maintained in good faith**

**for purposes other than obtaining insurance;**

- (2) the delivery state has approved the group policy; and  
 (3) the policy or the certificate contains provisions that are:

- (A) substantially similar to the provisions required by:  
 (i) section 19 of this chapter;  
 (ii) section 21 of this chapter; and  
 (iii) IC 27-8-5.6; and

- (B) consistent with the requirements set forth in:

- (i) section 15.6 of this chapter;  
 (ii) section 24 of this chapter;  
 (iii) section 26 of this chapter;  
 (iv) IC 27-8-6;  
 (v) IC 27-8-14;  
 (vi) IC 27-8-14.1;  
 (vii) IC 27-8-14.5;  
 (viii) IC 27-8-14.7;  
 (ix) IC 27-8-14.8;  
 (x) IC 27-8-20;  
 (xi) IC 27-8-23;  
 (xii) IC 27-8-24.3;  
 (xiii) IC 27-8-26;  
 (xiv) IC 27-8-28;  
 (xv) IC 27-8-29;  
 (xvi) 760 IAC 1-38.1; and  
 (xvii) 760 IAC 1-39.

(e) A certificate may be issued to a resident of Indiana pursuant to a group policy that is delivered or issued for delivery in a state other than Indiana if the commissioner determines that the policy pursuant to which the certificate is issued meets the requirements set forth in section 17(a) of this chapter.

(f) This section does not affect any other provision of Indiana law governing the terms or benefits of coverage provided to a resident of Indiana under any certificate or policy of insurance."

Page 9, line 12, after "association" delete ".".

Renumber all SECTIONS consecutively.

(Reference is to HB 1749 as printed February 21, 2003.)

FRY

Motion prevailed. The bill was ordered engrossed.

**House Bill 1718**

Representative Klinker called down House Bill 1718 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**House Bill 1571**

Representative Grubb called down House Bill 1571 for second reading. The bill was read a second time by title.

HOUSE MOTION  
 (Amendment 1571-1)

Mr. Speaker: I move that House Bill 1571 be amended to read as follows:

Page 4, line 35, delete "contract" and insert "**contract**".

Page 4, line 35, delete "**or violation**".

Page 4, delete line 36.

(Reference is to HB 1571 as printed February 12, 2003.)

FRIEND

Motion prevailed.

HOUSE MOTION  
 (Amendment 1571-2)

Mr. Speaker: I move that House Bill 1571 be amended to read as follows:

Page 1, delete lines 7 through 14.

Page 3, delete lines 17 through 34.

Page 3, line 35, delete "5" and insert "**4**".

Page 4, line 6, delete "6" and insert "**5**".

Page 4, line 8, delete "7" and insert "**6**".

Page 4, line 10, delete "8" and insert "**7**".

Page 4, line 11, delete "9" and insert "**8**".

Page 4, line 17, delete "10" and insert "**9**".

Page 4, line 29, delete "11" and insert "**10**".

Page 4, line 37, delete "12" and insert "**11**".

Page 5, between lines 14 and 15, begin a new line blocked left and insert:

**"The court may also award punitive damages to the farmer in the court's discretion."**

Page 5, line 19, delete ", as amended by this act." and insert ".".

Renumber all SECTIONS consecutively.

(Reference is to HB 1571 as printed February 21, 2003.)

GRUBB

Motion prevailed. The bill was ordered engrossed.

**House Bill 1245**

Representative Ayres called down House Bill 1245 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**House Bill 1209**

Representative Herrell called down House Bill 1209 for second reading. The bill was read a second time by title.

HOUSE MOTION  
 (Amendment 1209-2)

Mr. Speaker: I move that House Bill 1209 be amended to read as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 20-12-0.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Commission" refers to the commission for higher education.

**"Committee" refers to the committee on statewide transfer and articulation established by the commission under the transfer and articulation initiative, March 1, 2000.**

"State educational institution" means any university, college, or other educational institution, existing on or after March 29, 1971, in Indiana, for the purpose of providing programs of collegiate or university education or other postsecondary education and which is supported in whole or in part by appropriations made by the general assembly.

"Vocational education" means any postsecondary vocational, agricultural, occupational, manpower, employment, or technical training or retraining of less than a baccalaureate level that:

(1) is offered by a state educational institution; and

(2) enhances an individual's career potential.

SECTION 2. IC 20-12-0.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The commission shall have the following powers and duties:

(1) To develop, continually keep current, and implement a long range plan for postsecondary education. In developing this plan, the commission shall take into account the plans and interests of the state private institutions, anticipated enrollments in state postsecondary institutions, financial needs of students and other factors pertinent to the quality of educational opportunity available to the citizens of Indiana. The plan shall define the educational missions and the projected enrollments of the various state educational institutions.

(2) To consult with and make recommendations to the commission on vocational and technical education within the department of workforce development on all postsecondary vocational education programs. The commission shall biennially prepare a plan for implementing postsecondary vocational education programming after considering the long range state plan developed under IC 20-1-18.3-10. The commission shall submit this plan to the commission on vocational and technical education within the department of workforce development for its review and recommendations, and shall specifically report on how the plan addresses preparation for employment.

(3) To make recommendations to the general assembly and the governor concerning the long range plan, and prepare to submit drafts and proposed legislation needed to implement the plan. The commission may also make recommendations to the

general assembly concerning the plan for postsecondary vocational education under subdivision (2).

(4) To review the legislative request budgets of all state educational institutions preceding each session of the general assembly and to make recommendations concerning appropriations and bonding authorizations to state educational institutions including public funds for financial aid to students by any state agency. The commission may review all programs of any state educational institution, regardless of the source of funding, and may make recommendations to the governing board of the institution, the governor, and the general assembly concerning the funding and the disposition of the programs. In making this review, the commission may request and shall receive, in such form as may reasonably be required, from all state educational institutions, complete information concerning all receipts and all expenditures.

(5) To submit to the commission on vocational and technical education within the department of workforce development for its review under IC 20-1-18.3-15 the legislative budget requests prepared by state educational institutions for state and federal funds for vocational education. These budget requests shall be prepared upon request of the budget director, shall cover the period determined by the budget director, and shall be made available to the commission within the department of workforce development before review by the budget committee.

(6) To make, or cause to be made, studies of the needs for various types of postsecondary education and to make recommendations to the general assembly and the governor concerning the organization of these programs. The commission shall make or cause to be made studies of the needs for various types of postsecondary vocational education and shall submit to the commission on vocational and technical education within the department of workforce development its findings in this regard.

(7) To approve or disapprove the establishment of any new branches, regional or other campuses, or extension centers or of any new college or school, or the offering on any campus of any additional associate, baccalaureate, or graduate degree, or of any additional program of two (2) semesters, or their equivalent in duration, leading to a certificate or other indication of accomplishment. After March 29, 1971, no state educational institution shall establish any new branch, regional campus, or extension center or any new or additional academic college, or school, or offer any new degree or certificate as defined in this subdivision without the approval of the commission or without specific authorization by the general assembly. Any state educational institution may enter into contractual agreements with governmental units or with business and industry for specific programs to be wholly supported by the governmental unit or business and industry without the approval of the commission.

(8) If so designated by the governor or the general assembly, to serve as the agency for the purposes of receiving or administering funds available for postsecondary education programs, projects, and facilities for any of the acts of the United States Congress where the acts of Congress require the state to designate such an agency or commission. However, this subdivision does not provide for the designation of the commission by the governor as the recipient of funds which may be provided by acts of the United States Congress, received by an agency, a board, or a commission designated by the general assembly.

(9) To designate and employ an executive officer and necessary employees, to designate their titles, and to fix the compensation in terms of the employment.

(10) To appoint appropriate advisory committees composed of representatives of state educational institutions, representatives of private colleges and universities, students, faculty, and other qualified persons.

(11) To employ all powers properly incident to or connected with any of the foregoing purposes, powers, or duties, including the power to adopt rules.

(12) To develop a definition for and report biennially to the:

(A) general assembly;

(B) governor; and

(C) commission on vocational and technical education within the department of workforce development; on attrition and persistence rates by students enrolled in state vocational education.

**(13) To develop and maintain a computerized interactive student accessible web based system of courses and programs that are transferred between state educational institutions and submit a report to the legislative council not later than August 30 of each year on the status of the transfer of courses and programs. The report must include any changes made during the immediately preceding academic year.**

**(14) To direct the activities of the committee, including the activities set forth in subdivisions (15) and (16).**

**(15) To develop through the committee statewide transfer of credit agreements for courses that are most frequently taken by undergraduates.**

**(16) To develop through the committee statewide agreements under which associate of arts and associate of science programs articulate fully with related baccalaureate degree programs.**

**(17) To publicize by all appropriate means, including an Internet web site, a master list of course transfer of credit agreements and program articulation agreements.**

**SECTION 3. [EFFECTIVE JULY 1, 2003] (a) Under IC 20-12-0.5-8, as amended by this act, the commission for higher education shall submit an annual report to the legislative council by August 30, 2003. The annual report that is submitted to the legislative council by August 30, 2003, must include a comparison of the transfer of courses and programs between state educational institutions for the 2001-2002 academic year with the transfer of courses and programs between those institutions for the 2002-2003 academic year.**

**(b) This SECTION expires September 1, 2003.**

**SECTION 4. [EFFECTIVE JULY 1, 2003] (a) The commission for higher education shall complete the duties set forth in IC 20-12-0.5-8(13), IC 20-12-0.5-8(14), IC 20-12-0.5-8(15), IC 20-12-0.5-8(16), and IC 20-12-0.5-8(17), all as amended by this act, not later than August 30, 2005.**

**(b) This SECTION expires September 1, 2005.**

(Reference is to HB 1209 as printed February 18, 2003.)

HERRELL

Motion prevailed. The bill was ordered engrossed.

### House Bill 1197

Representative Lytle called down House Bill 1197 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1197-1)

Mr. Speaker: I move that House Bill 1197 be amended to read as follows:

Page 5, between lines 24 and 25, begin a new paragraph and insert:

**"SECTION 7. IC 12-23-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) For each state fiscal year, the division may not spend more than an amount equal to five percent (5%) of the total amount received by the division from the fund established under section 2 of this chapter for the administrative costs associated with the use of money received from the fund.**

**(b) The division shall allocate at least twenty-five percent (25%) of the funds derived from the riverboat admissions tax under IC 4-33-12-6 to the prevention and treatment of compulsive gambling.**

**(c) The division shall reimburse the Indiana gaming commission for the costs incurred in administering a voluntary exclusion program established under the rules of the Indiana gaming commission. The division shall pay the reimbursement**

from funds derived from the riverboat admissions tax under IC 4-33-12-6."

Renummer all SECTIONS consecutively.

(Reference is to HB 1197 as printed February 20, 2003.)

LYTLE

Motion prevailed. The bill was ordered engrossed.

### House Bill 1155

Representative Grubb called down House Bill 1155 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1155-1)

Mr. Speaker: I move that House Bill 1155 be amended to read as follows:

Page 11, after line 10, begin a new paragraph and insert:

"SECTION 6. IC 6-9-35 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### Chapter 35. Home Rule Financing

Sec. 1. This chapter applies to a municipality that has not imposed a food and beverage tax under this article.

Sec. 2. Except as otherwise provided, the definitions in IC 36-1-2 apply throughout this chapter.

Sec. 3. As used in this chapter, "bonds" has the meaning set forth in IC 5-1-11-1.

Sec. 4. As used in this chapter, "department" refers to the department of state revenue.

Sec. 5. As used in this chapter, "obligations" has the meaning set forth in IC 5-1-3-1(b).

Sec. 6. (a) The legislative body of a municipality may adopt an ordinance to impose an excise tax known as the municipal food and beverage tax on transactions described in section 10 of this chapter.

(b) Before a municipal legislative body may adopt an ordinance to impose a municipal food and beverage tax under this chapter, the legislative body must hold a public hearing on the proposed ordinance. Notice of the time, date, and place of the public hearing must be given in accordance with IC 5-3-1.

(c) A municipal food and beverage tax may be imposed at a rate of:

- (1) one-quarter of one percent (0.25%);
- (2) one-half of one percent (0.5%);
- (3) three-quarters of one percent (0.75%); or
- (4) one percent (1%);

of the gross retail income received by a merchant from a transaction described in section 10 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

(d) The municipal food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

Sec. 7. (a) Except as provided in subsection (b), the legislative body of a municipality that has imposed a municipal food and beverage tax under this chapter may adopt an ordinance to decrease the municipal food and beverage tax rate.

(b) If the municipality has outstanding bonds, leases, obligations, or other evidences of indebtedness that are payable from a municipal food and beverage tax imposed under this chapter, the legislative body may not decrease the municipal food and beverage tax rate below a rate that would produce one and twenty-five hundredths (1.25) times the total of the highest annual payment requirements due on those bonds, leases, obligations, or other evidences of indebtedness, to their final maturity.

(c) For purposes of subsection (b), the determination of a tax rate sufficient to produce one and twenty-five hundredths (1.25) times the total of the highest annual payment requirements shall be based on an average of the municipal food and beverage tax collections for the immediately preceding three (3) years if the municipal food and beverage tax has been imposed for the

immediately preceding three (3) years. If the municipal food and beverage tax has not been imposed for the immediately preceding three (3) years, the tax may not be reduced below a rate that would produce one and twenty-five hundredths (1.25) times the total of the highest annual payment requirements due on those bonds, leases, obligations, or other evidences of indebtedness, based upon a study by a qualified public accountant or financial adviser.

Sec. 8. The legislative body of a municipality that has imposed a municipal food and beverage tax under this chapter may adopt an ordinance to repeal the municipal food and beverage tax if no bonds, leases, obligations, or other evidences of indebtedness of the municipality that are payable from the municipal food and beverage tax are outstanding.

Sec. 9. The clerk of a municipality that has adopted an ordinance under this chapter shall immediately send a certified copy of the ordinance to the department.

Sec. 10. (a) Except as provided in subsection (c), a municipal food and beverage tax imposed under section 6 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the municipality in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) sold by a retail merchant that ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or
- (3) sold by a street vendor.

(c) The municipal food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 11. (a) A municipal food and beverage tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department.

(b) Within sixty (60) days following the end of each calendar year, the department shall notify the municipal fiscal officer of the total amount of municipal food and beverage taxes paid in the municipality for that calendar year.

(c) The department is entitled to retain an administrative fee each month for the collection and distribution of revenues from a municipal food and beverage tax imposed under this chapter. The administrative fee is one-tenth of one percent (0.1%) of the total municipal food and beverage taxes collected in the municipality for that month.

(d) The administrative fee retained by the department under this section may only be used to pay the administrative costs of the department incurred in the collection and distribution of a municipal food and beverage tax imposed under this chapter.

Sec. 12. The amounts received from a municipal food and beverage tax imposed under this chapter shall be paid monthly by the treasurer of state to the municipal fiscal officer upon warrants issued by the auditor of state.

Sec. 13. (a) The fiscal officer of a municipality that has imposed a municipal food and beverage tax under this chapter shall establish a municipal food and beverage tax receipts fund into which all amounts received monthly from the treasurer of state under this chapter shall be deposited.

(b) Money earned from the investment of money in the fund becomes a part of the fund.

Sec. 14. (a) Revenue derived from the imposition of a

municipal food and beverage tax under this chapter may be treated by the municipality as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the municipality.

(b) The department of local government finance may not reduce a municipality's:

- (1) property tax levy for a particular year; or
- (2) maximum property tax levy;

by the amount of revenue received from a municipal food and beverage tax imposed under this chapter.

**Sec. 15.** A municipality may use revenues from the imposition of a municipal food and beverage tax under this chapter for one (1) or more of the following purposes:

- (1) To reduce the municipality's property tax levy for the ensuing budget year.
- (2) To provide property tax relief to taxpayers or classes of taxpayers, to the extent permitted by the Constitution of the State of Indiana.
- (3) To pay debt service or lease rentals on:
  - (A) bonds;
  - (B) leases;
  - (C) obligations; or
  - (D) any other evidence of indebtedness of the municipality.
- (4) To pay the costs of any capital project approved by the legislative body.

**Sec. 16.** (a) Bonds, obligations, or other evidences of indebtedness issued under this chapter:

- (1) are payable solely from revenues received under this chapter, any other moneys legally available for that purpose, or any combination of these sources; and
- (2) may, in the discretion of the municipality, be sold at a negotiated sale at a price to be determined by the municipality or in accordance with IC 5-1-11 and IC 5-3-1.

(b) Leases entered into under this chapter:

- (1) may be for a term not to exceed fifty (50) years;
- (2) may provide for payments from revenues received under this chapter, any other revenues available to the municipality, or any combination of these sources;
- (3) may provide that payments by the municipality to the lessor are required only to the extent and only for the time that the lessor is able to provide the leased facilities in accordance with the lease;
- (4) must be based upon the value of the facilities leased; and
- (5) may not create a debt of the municipality for purposes of the Constitution of the State of Indiana.

(c) The legislative body of a municipality that has imposed a municipal food and beverage tax under this chapter may enter into a lease only after a public hearing at which all interested parties are provided the opportunity to be heard. After the public hearing, the legislative body may approve the execution of the lease on behalf of the municipality only if the legislative body finds that the service to be provided throughout the life of the lease will serve the public purpose of the municipality and is in the best interests of its residents.

(d) Upon executing a lease under this section, the municipal legislative body shall publish notice of the execution of the lease and the approval of the lease in accordance with IC 5-3-1.

(e) An action to contest the validity of bonds issued or leases entered into under this section may be brought not later than thirty (30) days after the adoption of a bond ordinance or notice of the execution and approval of the lease, as applicable.

(f) A pledge of revenues under this chapter is enforceable under IC 5-1-14-4.

**Sec. 17.** The general assembly covenants with each municipality that imposes a municipal food and beverage tax under this chapter and the purchasers and owners of bonds, leases, obligations, or any other evidences of indebtedness of a municipality payable from a municipal food and beverage tax imposed under this chapter that the general assembly will not repeal or amend this chapter in any manner that will adversely

affect the imposition or collection of a municipal food and beverage tax imposed under this chapter so long as the principal, interest, or lease rentals due under bonds, leases, obligations, or other evidences of indebtedness of a municipality that are payable from a municipal food and beverage tax imposed under this chapter remain unpaid."

Renumber all SECTIONS consecutively.

(Reference is to HB 1155 as printed February 20, 2003.)

FOLEY

Representative Pelath rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 1155 a bill pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

With consent, the House returned to bills on third reading.

## ENGROSSED HOUSE BILLS ON THIRD READING

### Engrossed House Bill 1683

Representative L. Lawson called down Engrossed House Bill 1683 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 229: yeas 95, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Harrison and Craycraft.

### Engrossed House Bill 1664

Representative Reske called down Engrossed House Bill 1664 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 230: yeas 79, nays 14. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Weatherwax.

### Engrossed House Bill 1174

Representative Hasler called down Engrossed House Bill 1174 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 231: yeas 70, nays 26. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Simpson.

### Engrossed House Bill 1588

Representative Summers called down Engrossed House Bill 1588 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 232: yeas 95, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act?



There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators M. Young and Howard.

### **Engrossed House Bill 1569**

Representative Kersey called down Engrossed House Bill 1569 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 233: yeas 90, nays 7. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Dillon and Skinner.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

### **Engrossed House Bill 1536**

Representative Welch called down Engrossed House Bill 1536 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 234: yeas 58, nays 39. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Miller and Simpson.

### **Engrossed House Bill 1383**

Representative Bischoff called down Engrossed House Bill 1383 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 235: yeas 98, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Ford, Nugent, and Lewis.

Representative Moses was excused.

### **Engrossed House Bill 1130**

Representative C. Brown called down Engrossed House Bill 1130 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 236: yeas 60, nays 37. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Miller, Simpson, and Breaux.

### **Engrossed House Bill 1047**

Representative Ulmer called down Engrossed House Bill 1047 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 237: yeas 89, nays 8. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Long and Howard.

Representative Moses, who had been excused, was present.

The Speaker Pro Tempore yielded the gavel to the Speaker.

### **Engrossed House Bill 1020**

Representative V. Smith called down Engrossed House Bill 1020 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 238: yeas 90, nays 7. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Rogers.

### **Engrossed House Bill 1161**

Representative Dobis called down Engrossed House Bill 1161 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 239: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Landske and Rogers.

### **HOUSE MOTION**

Mr. Speaker: I move that Engrossed House Bill 1702 be reconsidered pursuant to Rule 151.

C. BROWN

Motion prevailed.

### **Engrossed House Bill 1702**

Representative C. Brown called down Engrossed House Bill 1702 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was reread a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 240: yeas 56, nays 42. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Miller, Breaux, and C. Lawson.

## **REPORTS FROM COMMITTEES**

### **COMMITTEE REPORT**

Mr. Speaker: Your Committee on Interstate and International Cooperation, to which was referred House Bill 1010, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:



SECTION 1. IC 8-10-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A special and distinct revolving fund is hereby created, to be known as the Indiana port fund. Expenditures from said fund shall be made only for the acquisition of **the following:**

- (1) Land including lands under water and riparian rights, or options for the purchase of such land for a port site, and incidental expenses incurred in connection with such acquisition. ~~and for~~
- (2) Studies in connection with the port project.
- (3) **Studies in connection with transportation by water, intermodal transportation, and other modes of transportation. and**
- (4) ~~including~~ Administrative expenses of the commission.

Said fund shall be held in the name of the Indiana port commission, shall be administered by the commission, and all expenditures therefrom shall be made by the commission, subject, however, to the approval by governor and the state budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action. All unexpended funds appropriated to the Indiana board of public harbors and terminals by Acts 1957, c.286, s.6, are hereby transferred to and made a part of the Indiana port fund created by this section, and shall be expended for the purpose and in the manner provided by this chapter, subject only to the restrictions contained in this chapter and no others; provided, however, that not to exceed one hundred thousand dollars (\$100,000) shall be expended for any purpose other than the acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port site, and incidental expenses incurred in connection with such acquisition.

(b) Upon the sale of port revenue bonds for any port project, the funds expended from the Indiana port fund in connection with the development of such project and any obligation or expense incurred by the commission for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such project shall be reimbursed to the state general fund from the proceeds of such bonds.

SECTION 2. IC 36-7-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The following members of the commission shall be appointed from each county in the region:

- (1) A representative of the county executive who may be either a member of the executive or a person appointed by it.
- (2) A representative of the county fiscal body who must be a member of the fiscal body.

(b) The following members of the commission shall be appointed from each county in the region having a population of more than fifty thousand (50,000):

- (1) The county surveyor or a person appointed by ~~him~~ **the surveyor.**
- (2) Two (2) persons appointed by the executive of each municipality having a population of more than fifty thousand (50,000).
- (3) ~~Except for a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates;~~ One (1) person appointed by the executive of each of the seven (7) largest municipalities having a population of less than fifty thousand (50,000). If there are fewer than seven (7) municipalities, enough additional persons appointed by the county executive to bring the total appointed under this subdivision to seven (7).

(4) ~~For a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates, the membership is as follows:~~

(A) For a county having a population of not more than four hundred thousand (400,000); one (1) person appointed by the executive of each of the eight (8) largest municipalities having a population of less than fifty thousand (50,000);

(B) For a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); one (1) person appointed by the executive of each city having a population of less than fifty thousand (50,000) and one (1) person appointed by the executive of each of the five (5) towns with the largest population;

(c) The following members of the commission shall be appointed from each county in the region having a population of less than fifty thousand (50,000):

(1) One (1) person appointed by the executive of each of the five (5) largest municipalities or of each municipality if there are fewer than five (5).

(2) If there are fewer than five (5) municipalities, enough additional persons appointed by the county executive to bring the total appointed under this subsection to five (5).

(d) One (1) voting member of the commission shall be appointed by the governor.

(e) At least two-thirds (2/3) of the commission members must be elected officials. All persons appointed to the commission must be:

- (1) knowledgeable in matters of physical, social, or economic development of the region; and
- (2) residents of the municipality, county, or region that they represent.

A member of the commission may also serve as a member of a plan commission in the region.

(f) Members of the commission shall serve without salary but may be reimbursed for expenses incurred in the performance of their duties.

(g) The respective appointing authorities shall certify their appointments, and the certification shall be retained as a part of the records of the commission.

(h) ~~This subsection applies to a commission that does not include members from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);~~ If a vacancy occurs by resignation or otherwise, the respective appointing authority shall appoint a member for the unexpired term. Members shall be certified annually, and their terms expire on December 31 of each year.

SECTION 3. IC 36-7-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The commission shall prepare and adopt an annual appropriation budget for its operation, which shall be apportioned to each participating county on a pro rata per capita basis. After adoption, any amount that does not exceed an amount for each participating county equal to

- (1) ~~seventy cents (\$0.70) per capita for each participating county in a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates;~~ and
- (2) ~~thirty cents (\$0.30) per capita for all other commissions;~~

shall be certified to the respective county auditor who shall advertise the amount and establish the rate in the same manner as other county budgets. Any amount of the adopted budget that exceeds an amount equal to ~~seventy cents (\$0.70) per capita for each participating county in a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates~~ and thirty cents (\$0.30) per capita for each participating county ~~for all other commissions~~ is subject to review by the county fiscal body in the usual manner of budget review. The tax so levied and certified shall be estimated and entered upon the tax duplicates by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other county taxes are estimated, entered, collected, and enforced. The tax, as collected by the county treasurer, shall be transferred to the commission.

(b) In fixing and determining the amount of the necessary levy for the purpose provided in this section, the commission shall take into consideration the amount of revenue, if any, to be derived from the

federal grants, contractual services, and miscellaneous revenues above the amount of those revenues considered necessary to be applied upon or reserved upon the operation, maintenance, and administrative expenses for working capital throughout the year.

(c) After approval no sums may be expended except as budgeted unless the commission authorizes their expenditure. Before the expenditure of sums appropriated as provided in this section, a claim must be filed and processed as other claims for allowance or disallowance, for payment as provided by law.

(d) Any two (2) of the following officers may allow claims:

- (1) Chairman.
- (2) Vice chairman.
- (3) Secretary.
- (4) Treasurer.

The treasurer of the commission may receive, disburse, and otherwise handle funds of the commission subject to applicable statutes and procedures established by the commission.

(e) The commission shall act as a board of finance under the statutes relating to the deposit of public funds by political subdivisions.

(f) Any appropriated money remaining unexpended or unencumbered at the end of the year becomes part of a nonreverting cumulative fund to be held in the name of the commission. Unbudgeted expenditures from this fund may be authorized by vote of the commission and upon other approval as required by statute. The commission is responsible for the safekeeping and deposit of such sums, and the state board of accounts shall prescribe the methods and forms for keeping the accounts, records, and books to be used by the commission. The books, records, and accounts of the commission shall be periodically audited by the state board of accounts, and these audits shall be paid for as provided by statute.

SECTION 4. IC 36-7-7.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

#### **Chapter 7.6. Northwestern Indiana Regional Planning Commission**

**Sec. 1.** This chapter applies to the area consisting of the following counties:

- (1) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
- (2) A county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).
- (3) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000).

**Sec. 2.** As used in this chapter, "commission" means the northwestern Indiana regional planning commission established by section 3 of this chapter.

**Sec. 3.** The northwestern Indiana regional planning commission is established for the area described in section 1 of this chapter.

**Sec. 4. (a)** The following members shall be appointed to the commission:

- (1) A member of the county executive of each county described in section 1 of this chapter, to be appointed by the county executive.
- (2) A member of the county fiscal body of each county described in section 1 of this chapter, to be appointed by the county fiscal body.
- (3) The county surveyor of each county described in section 1 of this chapter.
- (4) For a county having a population of not more than four hundred thousand (400,000), one (1) person appointed by the executive of each of the eleven (11) largest municipalities.
- (5) For a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), one (1) person appointed by the executive of each of the nineteen (19) largest municipalities.
- (b) One (1) voting member of the commission shall be

appointed by the governor. The member appointed under this subsection may not vote in a weighted vote under section 9 of this chapter.

**Sec. 5. (a)** All commission members must be elected officials.

**(b)** All persons appointed to the commission must be:

- (1) knowledgeable in matters of physical, social, or economic development of the region; and
- (2) residents of the municipality, county, or region that they represent.

**(c)** A member of the commission may also serve as a member of a plan commission in the region.

**(d)** Members of the commission shall serve without salary but may be reimbursed for expenses incurred in the performance of their duties.

**(e)** The respective appointing authorities shall certify their appointments, and the certification shall be retained as a part of the records of the commission.

**(f)** Each member serves at the pleasure of the appointing authority. The appointing authority shall give written notice to the commission of a change of an appointee and the effective date of that change.

**(g)** If a vacancy occurs by resignation or otherwise, the appointing authority shall promptly appoint a replacement member.

**(h)** If a member of the commission is absent for more than three (3) consecutive meetings of the full commission, the commission shall notify that member's appointing authority and request the appointing authority to do one (1) of the following:

- (1) Replace the member.
- (2) Take action to assure the member's conscientious attendance at meetings of the full commission.

**Sec. 6. (a)** At its first regular meeting in each year, the commission shall elect from its members a chairperson, vice chairperson, secretary, and treasurer.

**(b)** Not more than two (2) of the officers elected under subsection (a) may be from the same county. If the area served by the commission is divided into subregions under section 19 of this chapter, there must be at least one (1) officer from each subregion.

**(c)** The vice chairperson may act as chairperson during the absence or disability of the chairperson.

**Sec. 7. (a)** The commission shall fix the time and place for holding regular meetings, but it shall meet:

- (1) at least quarterly; and
- (2) at other times established by the commission or the executive board of the commission.

**(b)** The chairperson of the commission or five (5) members of the commission may call a special meeting of the commission upon written request to the secretary of the commission. The secretary shall send to all commission members at least forty-eight (48) hours in advance of a special meeting a written notice fixing the time and place of the special meeting. Written notice of a special meeting is not required if:

- (1) the time of the special meeting has been fixed in a regular meeting; or
- (2) all members are present at the special meeting.

**(c)** A commission member may waive notice of any meeting by filing a written waiver with the secretary of the commission.

**Sec. 8.** The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations. The commission's record is a public record.

**Sec. 9. (a)** Twenty-six (26) commission members constitute a quorum.

**(b)** An action of the commission is official only if both the following apply:

- (1) The action is authorized at a regular meeting or a properly called special meeting in which at least one (1) member from each county described in section 1 of this chapter is present.
- (2) The action is authorized by:

- (A) the affirmative votes of twenty-six (26) members of

the commission; or

(B) a weighted affirmative vote of more than fifty (50) if a motion is made under subsection (c).

(c) Upon a motion by any one (1) member of the commission that is properly seconded by another member at:

(1) a regular meeting; or

(2) a properly called special meeting;

the commission shall use the weighted voting process described in subsection (d).

(d) Each commission member has a weighted vote determined as follows:

(1) In the case of a member appointed by the executive of a municipality, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the municipality as reported by the 2000 decennial census.

STEP TWO: Determine the sum population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by one hundred (100).

(2) In the case of a member appointed by the executive of a county, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the area in the county that is not within a municipality as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).

(3) In the case of a member appointed by a fiscal body, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the area in the county that is not within a municipality as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).

Sec. 10. (a) The commission shall elect from among its members by simple majority vote an executive board that consists of the following:

(1) The four (4) officers of the commission.

(2) One (1) member of the commission from each county described in section 1 of this chapter.

(3) The member of the commission appointed by the governor.

(b) The members of the executive board referred to in subsection (a)(2) shall be elected by a vote of the full membership of the commission.

(c) If a vacancy occurs in a position on the executive board referred to in subsection (a)(2), a successor shall be elected from among the members in the same manner as the member whose position has been vacated.

(d) The executive board shall conduct the business of the commission, except for:

(1) the adoption and amendment of bylaws, rules, and procedures for the operation of the commission;

(2) the election of officers and members of the executive board as provided in this chapter; and

(3) the adoption of the annual appropriation budget after review by the executive board.

(e) The executive board shall meet regularly at least one (1) time each month, unless otherwise determined by its members. The executive board shall notify the full membership of the commission of all its meetings with copies of its preliminary or final agendas and shall report all its actions and determinations to the full membership of the commission.

(f) A majority of members of the executive board constitutes a quorum. An action of the executive board is official only if it is authorized by an affirmative vote of a majority of the board at a regular or properly called special meeting. Any action of the executive board shall be reviewed at the next regular meeting of the commission following the executive board's action. Upon either:

(1) a decision by the majority of the board; or

(2) written request of a member of the commission; an issue shall be brought to a vote of the full commission.

Sec. 11. (a) After review and recommendation by the executive board, the commission shall appoint an executive director, who serves at the pleasure of the commission. The executive director must be qualified by training and experience in the management of public agencies and must be knowledgeable in planning.

(b) The executive director is the chief administrative officer and regular technical adviser of the commission. Subject to supervision by the commission and in furtherance of the purposes of the commission, the executive director:

(1) shall execute the commission functions;

(2) shall appoint and remove the staff of the commission;

(3) shall submit to the commission annually, or more often if required, a status report on the operation of the commission;

(4) may, with the approval of the executive board, execute contracts, leases, or agreements with other persons on behalf of the commission;

(5) shall be given access by all governmental agencies upon the executive director's written request, to all studies, reports, surveys, records, and other information and material in their possession that are required by the executive director for the accomplishment of the activities and objectives of the commission;

(6) shall propose annually a budget for the operation of the commission and administer the budget as approved by the commission;

(7) shall keep the records and care for and preserve all papers and documents of the commission; and

(8) shall perform other duties and may exercise other powers that the commission or the executive board delegates to the executive director.

Sec. 12. The purpose of the commission is to institute and maintain a comprehensive planning and programming process for:

(1) transportation;

(2) economic development; and

(3) environmental;

policy and provide a coordinative management process for the counties described in section 1 of this chapter. The commission shall coordinate its activities with all member units in the counties and shall coordinate and assist the planning programs of member units and the state that are related to its purpose.

Sec. 13. The commission may do any of the following in support of a purpose listed under section 12 of this chapter:

(1) Transact business and enter into contracts.

(2) Receive grants or appropriations from federal, state, or local governmental entities or from individuals or foundations and enter into agreements or contracts regarding the acceptance or use of those grants and appropriations to carry out any of the activities of the

commission.

(3) Apply for, receive, and disburse gifts, contributions, and grants of funds or in-kind services.

(4) Acquire by grant, purchase, gift, devise, lease, or otherwise and hold, use, sell, improve, maintain, operate, own, manage, lease, or dispose of:

(A) real and personal property of every kind and nature; and

(B) any right and interest;

as necessary for the exercise of, or convenient or useful for the carrying out of, the commission's purposes under this chapter.

(5) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the commission's purposes.

(6) Employ and fix the reasonable compensation of any employees and agents the commission considers necessary.

(7) Contract for special and temporary services and for professional assistance.

(8) Hold, use, administer, and expend money that is appropriated or transferred to the commission.

(9) Make contracts and leases for facilities and services.

(10) Act as a coordinating agency for programs and activities of other public and private agencies that are related to the commission's objectives.

(11) Enter into agreements or partnerships to do the following:

(A) Assist in coordinating activities involving state and local government, business organizations, and nonprofit organizations.

(B) Assist in the development and implementation of programs by other regional agencies and entities.

(12) Enter into coordinative arrangements with:

(A) any unit of government in Indiana or an adjoining state;

(B) an overlapping multicounty or interstate planning or development agency;

(C) a state agency;

(D) a federal agency;

(E) a private entity; or

(F) a minority business enterprise as defined by IC 4-13-16.5;

that are appropriate to the achievement of the commission's objectives or to address a common issue.

(13) Provide any administrative, management, or technical services to a unit of local government that requests the services. The local unit and the commission may enter into a contract concerning the commission's provision of administrative, management, or technical services and the cost to the local unit for the services.

(14) Conduct all necessary studies for the accomplishment of the commission's purpose.

(15) Publicize the commission's purposes, objectives, and findings and distribute reports on those purposes, objectives, and findings.

(16) Provide recommendations to units of local government and to other public and private agencies.

Sec. 14. The commission may adopt by resolution any regional comprehensive or functional plan, program, or policy as the commission's official recommendation for the development of the region, subject to the power of a county to exempt itself under section 15 of this chapter. The commission shall provide an annual report of its activities to the legislative bodies of the counties and municipalities in the region.

Sec. 15. If the commission receives a petition that:

(1) is signed by a majority of the commission members representing a county affected by a particular program; and

(2) objects to the establishment of the program within that county;

the commission may not implement the program in that county.

Sec. 16. (a) The commission must appoint advisory committees

to assist in the achievement of its objectives. The membership of advisory committees shall not be limited to the members of the commission.

(b) At least one (1) advisory committee must be appointed with a membership that is representative of the private sector of the communities served by the commission and must include members representative of:

(1) higher education institutions;

(2) minority business enterprises;

(3) labor and workforce organizations; and

(4) manufacturing entities;

active in at least one (1) of the communities served by the commission.

(c) Members of advisory committees are not entitled to compensation for their services but may be reimbursed by the commission for expenses incurred in the performance of their duties.

Sec. 17. The commission may not implement, enter into an agreement for, or propose a program that includes interstate wastewater management or disposal.

Sec. 18. A county or municipality may periodically, upon the request of the commission, assign or detail to the commission any employees of the county or municipality to make special surveys or studies requested by the commission.

Sec. 19. (a) The commission may organize into subregions and provide for the following:

(1) The organization of subregional councils.

(2) Meetings and rules of procedure of the subregional councils. The rules of procedure of the subregional councils may be adopted as a part of the rules and bylaws of the commission.

(b) The actions of each subregional council shall be referred to the other subregional council for review. The executive director and staff of the commission shall serve both subregional councils. Each subregional council shall consider problems that do not directly affect the other subregion. Each subregional council may hold meetings and elect a chairperson and secretary from among its own members.

Sec. 20. (a) The commission shall prepare and adopt an annual appropriation budget for its operation. The appropriation budget shall be apportioned to each participating county on a pro rata per capita basis. After adoption of the appropriation budget, any amount that does not exceed an amount for each participating county equal to seventy cents (\$0.70) per capita for each participating county shall be certified to the respective county auditor. The county auditor shall advertise the amount and establish the rate in the same manner as for other county budgets, with the exception that the rate may exceed the levy limitations contained in IC 6-1.1-18.5-13.

(b) The tax levied under this section and certified shall be estimated and entered upon the tax duplicates by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other county taxes are estimated, entered, collected, and enforced. The tax collected by the county treasurer shall be transferred to the commission.

(c) In fixing and determining the amount of the necessary levy for the purpose provided in this section, the commission shall take into consideration the amount of revenue, if any, to be derived from federal grants, contractual services, and miscellaneous revenues above the amount of those revenues considered necessary to be applied upon or reserved upon the operation, maintenance, and administrative expenses for working capital throughout the year.

(d) After the budget is approved, amounts may not be expended except as budgeted unless the commission authorizes their expenditure. Before the expenditure of sums appropriated as provided in this section, a claim must be filed and processed as other claims for allowance or disallowance for payment as provided by law.

(e) Any two (2) of the following officers may allow claims:

(1) Chairperson.

(2) Vice chairperson.

(3) Secretary.

(4) Treasurer.

(f) The treasurer of the commission may receive, disburse, and otherwise handle funds of the commission, subject to applicable statutes and to procedures established by the commission.

(g) The commission shall act as a board of finance under the statutes relating to the deposit of public funds by political subdivisions.

(h) Any appropriated money remaining unexpended or unencumbered at the end of a year becomes part of a nonreverting cumulative fund to be held in the name of the commission. Unbudgeted expenditures from this fund may be authorized by vote of the commission and upon other approval as required by statute. The commission is responsible for the safekeeping and deposit of the amounts in the nonreverting cumulative fund, and the state board of accounts shall prescribe the methods and forms for keeping the accounts, records, and books to be used by the commission. The books, records, and accounts of the commission shall be audited periodically by the state board of accounts, and those audits shall be paid for as provided by statute.

SECTION 5. IC 36-7-7-4.1 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 6. [EFFECTIVE JULY 1, 2003] (a) A regional planning commission under IC 36-7-7 that includes a county described in IC 36-7-7.6-1, as added by this act, becomes on July 1, 2003, the northwestern Indiana regional planning commission, subject to IC 36-7-7.6, as added by this act.

(b) A municipality or county required to make an appointment to the northwestern Indiana regional planning commission under IC 36-7-7.6-4, as added by this act, shall make the appointment before July 15, 2003.

(c) On July 1, 2003, all property of the regional planning commission described in subsection (a) becomes the property of the northwestern Indiana regional planning commission, subject to IC 36-7-7.6, as added by this act.

(d) This SECTION expires January 1, 2004.

(Reference is to HB 1010 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 2.

KROMKOWSKI, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1106, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, strike "a minimum of twenty-four (24) total".

Page 1, line 6, strike "hours of".

Page 1, line 7, delete "Orientation," and insert "Orientation."

Page 1, line 7, strike "one (1) hour."

Page 1, line 8, delete "safety," and insert "safety."

Page 1, line 8, strike "two (2) hours."

Page 1, line 9, delete "entry," and insert "entry."

Page 1, line 9, strike "two (2) hours."

Page 1, line 10, delete "Ventilation," and insert "Ventilation."

Page 1, line 10, strike "two (2) hours."

Page 1, line 11, delete "Apparatus," and insert "Apparatus."

Page 1, line 11, strike "two (2) hours."

Page 1, line 12, delete "Ladders," and insert "Ladders."

Page 1, line 12, strike "four (4) hours."

Page 1, line 13, delete "apparatus," and insert "apparatus."

Page 1, line 13, strike "six (6) hours."

Page 1, line 14, delete "loads," and insert "loads."

Page 1, line 14, strike "one and one-half (1 ½) hours."

Page 1, line 15, delete "Streams," and insert "Streams."

Page 1, line 15, strike "one and one-half (1 ½) hours."

Page 1, line 16, delete "hazards," and insert "hazards."

Page 1, line 16, strike "two (2) hours."

Page 2, line 8, delete "a" and insert "full-time and".

Page 2, line 8 delete "firefighter" and insert "firefighters".

Page 2, line 10, delete "personal".

Page 2, line 10, delete "This course".

Page 2, line 11, delete "must provide a minimum of one (1) hour of instruction."

(Reference is to HB 1106 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

MOSES, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1107, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 25, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1186, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 1.

MOSES, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1202, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 27, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1240, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 6.

MOSES, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1285, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

L. LAWSON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1287, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 31, delete "geosciences".

Page 2, line 32, after "degree" insert "in the geosciences".

(Reference is to HB 1287 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 5.

STEVENSON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1322, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT concerning education.

Delete everything after the enacting clause and insert the following:

**SECTION 1. [EFFECTIVE JULY 1, 2003] (a) Beginning July 1, 2003, the annual appropriation of state and local funds for the operation of nonconversion charter schools may not exceed the lesser of the following:**

**(1) Six million dollars (\$6,000,000).**

**(2) The actual total state and local funds allocated by the state or transferred from school corporations to nonconversion charter schools in the state fiscal year beginning July 1, 2003, and ending June 30, 2004.**

**(b) The state and local funds allocated and local funds transferred from school corporations under subsection (a)(2) include the costs of:**

**(1) students transferring from existing public schools to nonconversion charter schools; and**

**(2) students enrolling in nonconversion charter schools who were not previously enrolled in existing public schools.**

**(c) This SECTION expires June 30, 2005.**

(Reference is to HB 1322 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 6.

PORTER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1365, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

**SECTION 1. IC 32-29-1-11, AS ADDED BY P.L.2-2002, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) This chapter does not limit:**

**(1) the right to assign, mortgage, or pledge the rents and profits arising from real estate;**

**(2) the right of an assignee, a mortgagee, or a pledgee to collect rents and profits for application in accordance with an assignment, a mortgage, or a pledge; or**

**(3) the power of a court of equity to appoint a receiver to take charge of real estate to collect rents and profits for application in accordance with an assignment, a mortgage, or a pledge.**

**(b) A person may enforce an assignment, a mortgage, or a pledge of rents and profits arising from real property:**

**(1) whether the person has or does not have possession of the real estate; and**

**(2) regardless of the:**

**(A) adequacy of the security; or**

**(B) solvency of the assignor, mortgagor, or pledgor.**

**(c) If a person:**

**(1) enforces an assignment, a mortgage, or a pledge of rents and profits arising from real estate; and**

**(2) does not have possession of the real estate;**

the obligations of a mortgagee in possession of real estate may not be imposed on the holder of the assignment, mortgage, or pledge.

**(d) Except for those instances involving liens described in IC 32-28-3-1, a mortgagee seeking equitable subrogation with**

**respect to a lien may not be denied equitable subrogation solely because:**

**(1) the mortgagee:**

**(A) is engaged in the business of lending; and**

**(B) had constructive notice of the intervening lien over which the mortgagee seeks to assert priority;**

**(2) the lien for which the mortgagee seeks to be subrogated was released; or**

**(3) the mortgagee obtained a title insurance policy.**

(Reference is to HB 1365 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 14, nays 0.

BARDON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1371, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 4.

MOSES, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1375, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 14, nays 0.

PORTER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1378, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 29, delete "member".

Page 2, line 29, delete "comprised" and insert "**that is representative**".

Page 8, line 4, delete "In any action filed under this chapter, a court may award" and insert "**A civil action may not be initiated under this section before the final date of an order under section 5(c) of this chapter requiring:**

**(1) the completion; or**

**(2) a substantial beginning toward accomplishing the completion;**

**of the required remedial action.**

**(c) A community organization may not initiate a civil action under this section if:**

**(1) the enforcement authority; or**

**(2) a person designated by the enforcement authority; has filed a civil action under this section regarding the unsafe premises.**

**(d) At least sixty (60) days before commencing a civil action under this section, a community organization must issue a notice by certified mail, return receipt requested, that:**

**(1) specifies:**

**(A) the nature of the alleged nuisance;**

**(B) the date the nuisance was first discovered;**

**(C) the location on the property where the nuisance is allegedly occurring;**

**(D) the intent of the community organization to bring a civil action under this section; and**

**(E) the relief sought in the action; and**

**(2) is provided to:**

**(A) the owner of record of the premises;**

**(B) tenants located on the premises; and**

**(C) the enforcement authority."**

Page 8, delete lines 5 through 9.

Page 10, line 17, strike "5" and insert **"(5)(a)(6), 5(a)(7),"**.

Page 10, line 18, delete "5" and insert **"(5)(a)(6), 5(a)(7),"**.

Page 11, line 12, delete "determined by a qualified employee".

Page 11, delete lines 13 through 17.

Page 11, line 18, delete "(2)".

Page 11, run in lines 12 through 18.

Page 17, line 27, delete "shall" and insert **"may"**.

(Reference is to HB 1378 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 1.

MOSES, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1425, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 23, delete "twenty-five" and insert **"twenty-seven"**.

Page 2, line 23, after "dollars" insert **"and fifty cents"**.

Page 2, line 23, delete "\$25" and insert **"(\$27.50)"**.

(Reference is to HB 1425 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 14, nays 0.

BARDON, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1459, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, reset in roman "December".

Page 1, line 4, delete "November".

Page 1, line 8, after "IC 12-14-11" insert ":",

Page 1, line 9, delete "or any other public or private energy assistance program."

Page 2, line 6, delete "November" and insert **"December"**.

Page 3, line 30, delete "and information on other assistance that" and insert ":",

Page 3, delete lines 31 through 32.

Page 4, line 36, delete "or through" and insert ":",

Page 4, delete line 37.

Page 4, line 41, delete ":",

Page 4, line 42, delete "(1)".

Page 4, run in lines 41 through 42.

Page 5, line 1, delete "; or" and insert ":",

Page 5, delete lines 2 through 3.

Page 5, run in lines 1 and 4.

(Reference is to HB 1459 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 2.

STEVENSON, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1465, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 21, nays 5.

CRAWFORD, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Ways and Means, to which was

referred House Bill 1481, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 26, nays 0.

CRAWFORD, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1532, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 1.

SUMMERS, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1630, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 8, line 27, delete "the financial" and insert **"all"**.

Page 9, delete lines 2 through 18.

(Reference is to HB 1630 as printed February 20, 2003.)

and when so amended that said bill do pass.

Committee Vote: yeas 27, nays 0.

CRAWFORD, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1659, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 2, delete "(a)".

Page 1, line 13, after "establish" insert **"fair,"**.

Page 1, line 13, after "just" insert ":",

Page 1, delete lines 15 through 17.

Delete pages 2 through 4.

(Reference is to HB 1659 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

BOTTORFF, Chair

Report adopted.

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1680, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, after "trust company" insert ", **bank holding company,"**.

Page 1, line 8, after ""bank"" insert ", **banc, or banco"**.

Page 2, line 28, after ""bank"" insert ", **banc, or banco"**.

Page 3, line 6, strike "two" and insert **"five"**.

Page 3, line 7, strike "\$200" and insert **"(\$500)"**.

Page 3, line 11, after ""bank"" insert ", **banc, or banco"**.

Page 3, line 14, after "bank" insert **"or bank holding company"**.

Page 3, line 14, delete "deceptively" and insert **"confusingly"**.

Page 3, line 15, after "bank" insert **"or bank holding company"**.

Page 3, line 17, after "bank" insert **"or bank holding company"**.

Page 3, line 18, after "bank" insert **"or bank holding company"**.

Page 3, line 24, after "bank" insert **"or bank holding company"**.

Page 3, line 25, after "bank" insert **"or bank holding company"**.

Page 3, line 27, after "to the" delete "commissioner" and insert **"department"**.

Page 3, line 27, after "If the" delete "commissioner" and insert **"department"**.



Page 3, line 29, delete "commissioner" and insert "**department**".  
 Page 3, line 33, delete "commissioner" and insert "**department**".  
 Page 3, line 34, delete "ten thousand dollars (\$10,000)" and insert "**fifteen thousand dollars (\$15,000)**".  
 Page 3, line 39, after "bank" insert "**or bank holding company**".  
 Page 4, line 4, after "bank" insert "**or bank holding company**".  
 (Reference is to HB 1680 as introduced.)  
 and when so amended that said bill do pass.  
 Committee Vote: yeas 12, nays 0.

BARDON, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1681, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.  
 Committee Vote: yeas 27, nays 0.

CRAWFORD, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1686, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.  
 Committee Vote: yeas 15, nays 10.

CRAWFORD, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1761, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.  
 Committee Vote: yeas 10, nays 0.

SUMMERS, Chair

Report adopted.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1788, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulations and consumer sales and credit.

Page 1, delete lines 1 through 16.

Delete pages 2 through 8.

Page 9, delete lines 1 through 18.

Page 10, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 7. IC 7.1-6-2-6, AS AMENDED BY P.L.1-2002, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The **Dick Doyle** youth tobacco education and enforcement fund is established. The fund shall be administered by the commission.

(b) Expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Money in the fund shall be used for the following purposes:

(1) For youth smoking prevention education. The commission may contract with the state department of health or the office of the secretary of family and social services for youth smoking

prevention education programs.

(2) For education and training of retailers who sell tobacco products. The commission may contract with education and training programs of the office of the secretary of family and social services, the division of mental health and addiction, enforcement officers, or a program approved by the commission.

(3) For the commission, for enforcement of youth tobacco laws.

SECTION 8. IC 7.1-6-2-8, AS ADDED BY P.L.204-2001, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) This section applies whenever a civil penalty payable to the **Dick Doyle** youth tobacco education and enforcement fund is imposed.

(b) The person liable for the civil penalty shall pay the full amount of the civil penalty to the commission within thirty (30) days after final judgment.

(c) A person who fails to pay a civil penalty within the time specified in subsection (b) is liable for a late penalty equal to the greater of the following:

(1) Twenty-five percent (25%) of the amount of the civil penalty imposed under IC 35-46-1.

(2) The lesser of the following:

(A) Twenty-five dollars (\$25) multiplied by the number of days that have elapsed after the date that the civil penalty was imposed by a court.

(B) Five thousand dollars (\$5,000).

(d) A person who fails to pay a civil penalty within the time specified in subsection (b) is liable for interest on the unpaid amount of the:

(1) civil penalty imposed by a court; and

(2) late penalty imposed under this section.

The interest rate is the adjusted rate of interest as determined under IC 6-8.1-10-1 payable from the date that payment of the amount was due.

(e) A person who fails to pay a civil penalty within the time specified in subsection (b) is liable for the reasonable documented out-of-pocket expenses incurred in pursuing collection efforts.

(f) The commission shall collect the following:

(1) Civil penalties imposed by a court.

(2) Late penalties imposed under this section.

(3) Interest imposed under this section.

(4) Reasonable documented out-of-pocket expenses incurred in pursuing collection efforts.

(g) Late penalties and interest imposed under this section shall be deposited in the **Dick Doyle** youth tobacco education and enforcement fund established by section 6 of this chapter."

Page 13, line 32, delete "who is unable to" and insert "**shall**".

Page 13, line 37, delete ";" and insert ".".

Page 13, delete line 38.

Page 13, line 39, after "(b)" insert "**Each day during which a retailer fails to produce an invoice or other evidence under subsection (a) constitutes a separate violation of this section.**

(c) The department of state revenue may revoke the registration certificate issued under IC 6-7-1-16 to a retailer that violates subsection (a).

(d) This subsection applies in addition to or instead of any other civil or criminal penalty. The department may impose on a retailer that violates subsection (a) a civil penalty that does not exceed the greater of:

(1) five hundred percent (500%) of the retail value of the cigarettes described in subsection (a); or

(2) five thousand dollars (\$5,000);

for each violation.

(e)".

Page 14, line 2, delete "(c)" and insert "(f)".

Page 14, delete lines 9 through 19, begin a new paragraph and insert:

"(g) Civil penalties collected under this chapter shall be deposited as follows:

(1) Seventy percent (70%) to the enforcement and administration fund established under IC 7.1-4-10.

**(2) Thirty percent (30%) to the state general fund for the use of the department of state revenue.**

SECTION 10. IC 35-46-1-10, AS AMENDED BY P.L.204-2001, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) A person who knowingly:

- (1) sells or distributes tobacco to a person less than eighteen (18) years of age; or
- (2) purchases tobacco for delivery to another person who is less than eighteen (18) years of age;

commits a Class C infraction. For a sale to take place under this section, the buyer must pay the seller for the tobacco product.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a person accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

- (1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph, showing that the purchaser or recipient was of legal age to make the purchase.
- (2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1, or a similar card issued under the laws of another state or the federal government, showing that the purchaser or recipient was of legal age to make the purchase.
- (3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused person sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

- (1) agriculture;
- (2) processing;
- (3) transporting;
- (4) wholesaling; or
- (5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a person who sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the **Dick Doyle** youth tobacco education and enforcement fund (IC 7.1-6-2-6).

SECTION 11. IC 35-46-1-10.2, AS AMENDED BY P.L.1-2001, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10.2. (a) A retail establishment that sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

- (1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).
- (2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).
- (3) If the retail establishment at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).
- (4) If the retail establishment at that specific business location

has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

- (1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.
- (2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.
- (3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

- (1) agriculture;
- (2) processing;
- (3) transporting;
- (4) wholesaling; or
- (5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the **Dick Doyle** youth tobacco education and enforcement fund (IC 7.1-6-2-6).

SECTION 12. IC 35-46-1-11.3, AS AMENDED BY P.L.204-2001, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.3. (a) This section does not apply to advertisements that are less than fourteen (14) square feet and posted:

- (1) at street level in the window or on the exterior of a business property or establishment where tobacco products are manufactured, distributed, or sold; or
- (2) on vehicles.

(b) This section does not apply to advertisements that are placed on a fixed, permanent marquee sign that is located on the retailer's property where tobacco products are sold.

(c) A person may not advertise or cause to be advertised tobacco products on a billboard or an outdoor advertisement where the tobacco advertising occupies an area that exceeds fourteen (14) square feet. The alcohol and tobacco commission may adopt rules under IC 4-22-2 to determine how to measure the tobacco product advertising on a sign that contains both tobacco product advertising and advertising that is not tobacco related. The rules may not allow the frame of the sign or other structural parts that only serve to support the sign to be included in the tobacco advertising measurement.

(d) A person who violates this section commits a Class C infraction. An advertisement that is in violation of this section must be removed not more than ten (10) days after a citation or summons has been issued. Notwithstanding IC 34-28-5-4(c), if an advertisement that is in violation of this section is not removed not

more than ten (10) days after a citation or summons has been issued, a civil judgment for an infraction committed under this section must include a civil penalty of one hundred dollars (\$100) for each day that the advertisement was in violation of this section.

(e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the **Dick Doyle** youth tobacco education and enforcement fund (IC 7.1-6-2-6).

SECTION 13. IC 35-46-1-11.5, AS AMENDED BY P.L.1-2001, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.5. (a) Except for a coin machine that is placed in or directly adjacent to an entranceway or an exit, or placed in a hallway, a restroom, or another common area that is accessible to persons who are less than eighteen (18) years of age, this section does not apply to a coin machine that is located in the following:

- (1) That part of a licensed premises (as defined in IC 7.1-1-3-20) where entry is limited to persons who are at least eighteen (18) years of age.
- (2) Private industrial or office locations that are customarily accessible only to persons who are at least eighteen (18) years of age.
- (3) Private clubs if the membership is limited to persons who are at least eighteen (18) years of age.
- (4) Riverboats where entry is limited to persons who are at least twenty-one (21) years of age and on which lawful gambling is authorized.

(b) As used in this section, "coin machine" has the meaning set forth in IC 35-43-5-1.

(c) Except as provided in subsection (a), an owner of a retail establishment may not:

- (1) distribute or sell tobacco by use of a coin machine; or
- (2) install or maintain a coin machine that is intended to be used for the sale or distribution of tobacco.

(d) An owner of a retail establishment who violates this section commits a Class C infraction. A citation or summons issued under this section must provide notice that the coin machine must be moved within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

- (1) If the owner of the retail establishment has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).
- (2) If the owner of the retail establishment has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).
- (3) If the owner of the retail establishment has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days for the same machine, the coin machine shall be removed or impounded by a law enforcement officer having jurisdiction where the violation occurs.

An owner of a retail establishment may not be issued a citation or summons for a violation of this section more than once every two (2) business days for each business location.

(e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the **Dick Doyle** youth tobacco education and enforcement fund established under IC 7.1-6-2-6.

SECTION 14. IC 35-46-1-11.7, AS AMENDED BY P.L.1-2001, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.7. (a) A retail establishment that has as its primary purpose the sale of tobacco products may not allow an individual who is less than eighteen (18) years of age to enter the retail establishment.

(b) An individual who is less than eighteen (18) years of age may not enter a retail establishment described in subsection (a).

(c) A retail establishment described in subsection (a) must conspicuously post on all entrances to the retail establishment a sign in boldface type that states "NOTICE: It is unlawful for a person less than 18 years old to enter this store."

(d) A person who violates this section commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the person has not been cited for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).

(2) If the person has had one (1) violation in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).

(3) If the person has had two (2) violations in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).

(4) If the person has had three (3) or more violations in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

A person may not be cited more than once every twenty-four (24) hours.

(e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the **Dick Doyle** youth tobacco education and enforcement fund established under IC 7.1-6-2-6."

Renumber all SECTIONS consecutively.

(Reference is to HB 1788 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 18, nays 8.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1789, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, line 9, delete "Twenty-three percent (23%)" and insert "**Twenty percent (20%)**".

Page 5, line 12, delete "Nine percent (9%)" and insert "**Seven percent (7%)**".

Page 5, line 16, delete "Nine percent (9%)" and insert "**Seven percent (7%)**".

Page 5, line 18, delete "Nine percent (9%)" and insert "**Six percent (6%)**".

Page 5, between line 29 and 30, begin a new line block indented and insert:

**"(11) Ten percent (10%) to fund the operational expenses of the minority epidemiology resource center within the Indiana minority health coalition. Money dedicated under this subdivision must be used to do the following:**

**(A) Research and provide health data concerning minority populations in Indiana.**

**(B) Provide technical assistance to the state department of health and the office of the secretary of family and social services to:**

**(i) address the elimination of health disparities among minorities; and**

**(ii) evaluate health programs focused on minorities."**

Page 6, line 7, delete "Address." and insert "**An identifier designated by the department that is unique to the retail merchant. An identifier under this item includes a universal product code (UPC).**".

Page 7, line 26, delete "twenty" and insert "**fifty**".

Page 7, line 26, delete "(120%)." and insert "**(150%).**".

Page 8, line 26, delete "The" and insert "**Beginning July 1, 2004, the**".

Page 8, line 26, after "to" insert "**the lesser of twenty million dollars (\$20,000,000) or**".

Page 8, delete lines 31 through 35, begin a new paragraph triple block indented and insert:

**"(I) the gross retail income received by a vending machine operator from retail transactions involving the sale of tangible personal property through a vending machine during the same reporting period in the calendar year beginning January 1, 2002, and ending December 31, 2002, multiplied by six percent (6%); multiplied by"**

Page 9, between lines 5 and 6, begin a new paragraph and insert:

**"Sec. 13. A distributor that knowingly sells or otherwise**

distributes tangible personal property to one (1) or more vending machine operators during a reporting period shall submit a report concerning the transactions for the period to the department in the manner and on a form prescribed by the department. A report under this section must include the following:

- (1) The total gross retail income received from each vending machine operator during the reporting period.
- (2) The retail merchant certificate number of each vending machine operator to whom the distributor sold or otherwise distributed tangible person property during the reporting period.
- (3) Any other information the department reasonably requires."

Page 9, line 6, delete "13." and insert "14."

Page 10, line 24, delete "2003." and insert "2004."

Page 11, line 28, delete "nine percent (9%)" and insert "seven percent (7%)".

Page 13, line 40, delete "twenty-three" and insert "twenty".

Page 13, line 41, delete "(23%)" and insert "(20%)".

Page 16, line 5, delete "2003," and insert "2004,".

Page 20, delete lines 11 through 16, begin a new paragraph and insert:

"Sec. 24. (a) The amount of a tax credit for a single taxpayer allowed under this chapter may not exceed twelve thousand dollars (\$12,000) in a taxable year.

(b) The total amount of tax credits approved under this chapter in a state fiscal year may not exceed three percent (3%) of the amount in the state technology advancement and retention account established by IC 4-12-11-1."

Page 20, line 17, delete "(b)" and insert "(c)".

Page 20, line 22, delete "(c)" and insert "(d)".

Page 21, line 9, delete "nine percent (9%)" and insert "six percent (6%)".

Page 23, line 25, delete "nine percent (9%)" and insert "seven percent (7%)".

Page 29, delete line 41 and insert "2004."

Page 30, line 14, delete "2005." and insert "2006."

Page 30, line 21, delete "2004," and insert "2005,".

Page 30, line 25, delete "2004." and insert "2005."

Page 30, line 26, delete "2005." and insert "2006."

Page 30, line 35, delete "2004." and insert "2005."

Page 30, line 41, delete "2003," and insert "2004,".

Page 30, line 42, delete "2003." and insert "2004."

(Reference is to HB 1789 as printed February 18, 2003.)

and when so amended that said bill do pass.

Committee Vote: yeas 17, nays 6.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1796, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 24, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1813, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 10, after "a" insert "payable".

Page 3, line 10, delete "considered to be" and insert "attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program

under IC 12-16-3.5-1 or IC 12-16-3.5-2 and:

- (1) who is a resident of the county;
- (2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or
- (3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county."

Page 3, delete lines 11 through 23.

Page 3, line 26, delete "had one (1)" and insert "submits to the division during the state fiscal year a payable claim under IC 12-16-7.5".

Page 3, delete lines 27 through 28.

Page 3, line 29, delete "state fiscal year".

Page 5, line 3, after "(b)" insert "an amount equal to".

Page 5, line 3, after "amount" and insert ",".

Page 5, line 5, after "IC 12-16-7.5-4.5" insert ",".

Page 5, line 8, delete "had" and insert "submitted to the division".

Page 5, line 8, after "more" insert "payable".

Page 5, line 8, delete "approved" and insert "under IC 12-16-7.5".

Page 5, delete line 9.

Page 5, line 10, delete "admissions that occurred".

Page 5, line 12, delete "attributable." and insert "attributed."

Page 5, line 15, delete "with" and insert "that submitted to the division".

Page 5, line 15, delete "approved" and insert "payable".

Page 5, line 15, after "claims" insert "under IC 12-16-7.5 attributed to the county during the state fiscal year ; and".

Page 5, delete lines 16 through 17.

Page 5, line 18, delete "each hospital's approved" and insert "all hospital payable".

Page 5, line 18, after "claims" insert "submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year."

Page 5, delete lines 19 through 20.

Page 5, line 23, delete "IC 12-16-7.5-4.5(c)" and insert "IC 12-16-7.5-4.5(b)."

Page 5, delete line 24.

Page 5, line 29, delete "IC 12-16-7.5-4.5(c) STEP FOUR." and insert "IC 12-16-7.5-4.5(b)."

Page 5, line 30, delete "approved" and insert "payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year."

Page 5, delete line 31.

Page 5, line 32, delete "occurred during the state fiscal year,".

Page 5, line 33, delete "approved".

Page 5, line 33, after "hospital" insert "payable".

Page 5, line 33, after "claims" insert "submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year."

Page 5, delete lines 34 through 35.

Page 5, line 40, delete "IC 12-16-7.5-4.5(c) STEP" and insert "IC 12-16-7.5-4.5(b)."

Page 5, delete line 41.

Page 6, line 4, after "payment." insert "The amount of a hospital's add-on payment is subject to the availability of funding for the non-federal share of the payment under subsection (e)."

Page 6, delete lines 7 through 19, begin a new paragraph and insert:

"(e) The non-federal share of a payment to a hospital under subsection (c) is funded from the funds transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5(b) by each county to which a payable claim under IC 12-16-7.5 submitted to the division during the state fiscal year by the hospital is attributed.

(f) The amount of a county's transferred funds available to be used to fund the non-federal share of a payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds the county transferred

to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5(b) that the total amount of the hospital's payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year bears to the total amount of all hospital payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal.

(g) Any county's funds identified in subsection (f) that remain after the non-federal share of a hospital's payment has been funded are available to serve as the non-federal share of a payment to a hospital under section 9.5 of this chapter.

(h) For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b).

(i) For purposes of this section:

- (1) the amount of a payable claim is the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and
- (2) a payable claim under IC 12-16-7.5 submitted by a hospital includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program."

Page 6, line 23, delete "considered to be attributable" and insert "attributed".

Page 6, after "the" insert "payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and;

- (1) who is a resident of the county;
- (2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or
- (3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county."

Page 6, delete lines 24 through 36.

Page 6, delete lines 39 through 41, begin a new line block indented and insert:

"(1) that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5; and".

Page 7, line 1, delete "approved claims for" and insert "payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year;".

Page 7, delete line 2.

Page 7, line 5, after "(b)" insert "an amount equal to".

Page 7, line 5, after "amount" insert ",".

Page 7, line 7, after "IC 12-16-7.5-4.5" insert ",".

Page 7, line 11, delete "IC 12-16-7.5-4.5(c) STEP FOUR" and insert "IC 12-16-7.5-4.5(b)".

Page 7, line 12, delete "amount of the".

Page 7, line 12, after "hospital" insert "payable".

Page 7, line 12, after "claims" insert "attributed to the county and submitted to the division during the state fiscal year."

Page 7, delete lines 13 through 14.

Page 7, line 18, delete "IC 12-16-7.5-4.5(c) STEP FOUR" and insert "IC 12-16-7.5-4.5(b)".

Page 7, line 19, after "hospital" insert "payable".

Page 7, line 19, after "claims" insert "attributed to the county and submitted to the division during the state fiscal year."

Page 7, delete lines 20 through 21.

Page 7, line 22, delete "Determine" and insert "Calculate".

Page 7, line 23, delete "each county" and insert "the counties".

Page 7, line 26, delete "approved" and insert "payable".

Page 7, line 26, delete "for hospital admissions that" and insert "under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year."

Page 7, delete line 27.

Page 7, line 31, delete "approved".

Page 7, line 31, delete "for hospital admissions that" and insert "under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year."

Page 7, delete line 32.

Page 7, line 33, delete "Determine" and insert "Calculate".

Page 7, line 34, delete "each hospital" and insert "the hospitals".

Page 7, line 37, delete "THREE" and insert "SIX".

Page 7, line 39, delete "total amount" and insert "sum".

Page 7, line 40, delete "for all hospitals".

Page 8, line 1, delete "FIVE" and insert "SEVEN".

Page 8, line 1, delete "amount" and insert "sum".

Page 8, line 3, after "payment." insert "The amount of the hospital's add-on payment is subject to the availability of funding for the non-federal share of the payment under subsection (e)."

Page 8, delete lines 8 through 18, begin a new line blocked left and insert "indigent care trust fund under IC 12-16-7.5-4.5(b) and not expended under section 9(e) of this chapter. To the extent possible, the funds shall be derived on a proportional basis from the funds transferred by each county identified in subsection (c), STEP ONE:

(1) to which at least one (1) payable claim submitted by the hospital to the division during the state fiscal year is attributed; and

(2) whose funds transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5(c) were not completely expended under section 9(e) of this chapter.

The amount to be derived from the remaining funds transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5(c) is an amount that bears the same proportion to the total amount of funds transferred by all the counties identified in subsection (c), STEP ONE, that the amount calculated for the hospital under subsection (c), STEP FIVE, bears to the amount calculated under subsection (c), STEP SIX."

Page 8, between lines 31 and 32, begin a new paragraph and insert:

"(h) Any funds transferred to the Medicaid indigent care trust fund under IC 12-16-7.5-4.5(b) remaining after payments are made under this section shall be used as provided in IC 12-15-20-2(8)."

Page 9, line 5, after "(7)" insert "Payments, funding, and transfers as otherwise provided in clauses (8)(D) and (8)(F).

(8)".

Page 9, line 42, after "transfers" insert ", which shall include amounts transferred under IC 12-16-7.5-4.5(b), STEP FOUR,".

Page 10, line 9, delete "IC 12-16-7.5-4.5(c) STEP FOUR" and insert "IC 12-16-7.5-4.5(b)".

Page 10, line 18, after "IC 12-15-15-9.5," insert "the amount to be transferred under clause (E)."

Page 10, line 18, delete "the nonfederal share" and insert ", subject to clause (F), the non-federal share of Medicaid add-on payments to hospitals licensed under IC 16-21 under a payment methodology, which shall be developed by the office."

Page 10, line 19, delete "of payments under".

Page 10, line 19, strike "the state uninsured parents program".

Page 10, line 21, strike "established under".

Page 10, strike line 22.

Page 10, line 23, strike "If the office does not implement an uninsured parents".

Page 10, strike lines 24 through 30.

Page 10, line 30, after "office." insert "As provided in clause (D), for each fiscal year ending after June 30, 2003, an amount equal to the amount calculated under STEP THREE of the following formula shall be transferred to the office:

STEP ONE: Calculate the product of thirty-five million dollars (\$35,000,000) multiplied by the federal medical assistance percentage for federal fiscal year 2003.

STEP TWO: Calculate the sum of the amounts, if any, reasonably estimated by the office to be transferred or otherwise made available to the office for the state fiscal year, and the amounts, if any, actually transferred or otherwise made available to the office for the state fiscal

year, under arrangements whereby the office and a hospital licensed under IC 16-21-2 agree that an amount transferred or otherwise made available to the office by the hospital or on behalf of the hospital shall be included in the calculation under this STEP.

**STEP THREE:** Calculate the amount by which the product calculated under STEP ONE exceeds the sum calculated under STEP TWO.

**(F)** If the office determines that, on an ongoing basis, the amount of intergovernmental transfers remaining after:

(i) funding the non-federal share of payments to hospitals under IC 12-15-15-9;

(ii) funding the non-federal share of payments to hospitals under IC 12-15-15-9.5; and

(iii) transferring the amounts under clause (E);

will be sufficient to fund the non-federal share of payments under the uninsured parents program established under IC 12-17.7, the office shall, beginning in the state fiscal year immediately following the state fiscal year in which the office's determination is made under this clause, discontinue using the remaining intergovernmental transfers to fund the add-on payments provided for in clause (D) (except for payments under IC 12-15-15-9 and IC 12-15-15-9.5) and shall use the remaining intergovernmental transfers to fund the uninsured parents program established under IC 12-17.7. The remaining intergovernmental transfers shall be transferred to the state uninsured parents fund established under IC 12-17.8-2-1.5. This clause does not apply until, as determined by the office, all the other requirements for implementing the uninsured parents program, including the approval of all necessary federal waivers, have been satisfied. The operation and effect of this clause terminate upon the termination of the uninsured parents program established under IC 12-17.7."

Page 10, line 31, strike "(F)" and insert "(G)".

Page 10, line 39, delete "emergency".

Page 11, line 3, strike "costs incurred in providing care to" and insert "care provided to".

Page 11, line 4, delete "patient" and insert "person".

Page 11, delete lines 7 through 21, begin a new line blocked left and insert:

"division shall determine whether the person is a resident of Indiana and, if so, the person's county of residence. If the person is a resident of Indiana, the division shall provide a copy of the application to the county office of the person's county of residence. If the person is not a resident of Indiana, the division shall provide a copy of the application to the county office of the county where the onset of the medical condition that necessitated the care occurred. If the division cannot determine whether the person is a resident of Indiana or, if the person is a resident of Indiana, the person's county of residence, the division shall provide a copy of the application to the county office of the county where the onset of the medical condition that necessitated the care occurred.

**—(c)** A county office that receives a request from the division shall cooperate with the division in determining whether a person is a resident of Indiana and, if the person is a resident of Indiana, the person's county of residence."

Page 11, line 26, before "has" strike "patient" and insert "person".

Page 11, line 26, after "to" insert ", or otherwise provided care by,"

Page 11, line 26, before "is" strike "patient" and insert "person".

Page 11, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 10. IC 12-16-4.5-8, AS ADDED BY P.L.120-2002, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A ~~patient~~ **person** may file an application directly with the ~~county office in the county where the hospital providing care is located~~ **division** if the application is filed not more than thirty (30) days after the ~~patient's admission~~ **person**

was admitted to, or provided care by, the hospital.

(b) Reimbursement for the costs incurred in providing care to an eligible person may only be made to the providers of the care."

Page 11, line 31, after "application of" insert "or for".

Page 11, line 31, strike "patient" and insert "person who was".

Page 11, line 31, after "to" insert ", or who was otherwise provided care by,"

Page 11, line 32, strike "patient's" and insert "person's".

Page 11, line 34, delete "patient" and insert "person".

Page 11, line 35, delete "patient became in need of medical" and insert "onset of the medical condition that necessitated the care occurred".

Page 11, line 36, delete "care".

Page 11, line 36, delete "patient's" and insert "person's".

Page 11, line 36, after "or" insert "Indiana".

Page 11, line 38, delete "patient's" and insert "person's".

Page 11, line 42, after "3." insert "(a) Subject to subsection (b),".

Page 11, line 42, delete "If" and insert "if".

Page 12, between lines 4 and 5, begin a new paragraph and insert: "**(b) Before denying assistance under the hospital care for the indigent program, the division must provide the person and the hospital written notice of:**

(1) the specific information or verification needed to determine eligibility; and

(2) the date on which the application will be denied if the information or verification is not provided within ten (10) days after the date of the notice."

Page 12, line 8, strike "patient" and insert "person".

Page 12, line 15, strike "patient" and insert "person".

Page 12, line 15, strike "or" and insert "care,"

Page 12, line 15, after "care," insert "or transportation services,"

Page 12, line 16, delete "person" and insert "person, physician, hospital, or transportation provider".

Page 12, line 18, delete "person" and insert "person, physician, hospital, or transportation provider".

Page 12, line 18, strike "person's".

Page 12, line 18, delete "." and insert "of the person, physician, hospital, or transportation provider,"

Page 12, line 28, delete "person" and insert "person, physician, hospital, or transportation provider".

Page 12, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 16. IC 12-16-6.5-4, AS ADDED BY P.L.120-2002, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A notice of the hearing shall be served upon all persons interested in the matter, **including any affected physician, hospital, or transportation provider**, at least twenty (20) days before the time fixed for the hearing.

SECTION 17. IC 12-16-6.5-5, AS ADDED BY P.L.120-2002, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The division shall determine the eligibility of the person for payment of the cost of medical or hospital care under the hospital care for the indigent program.

(b) If the person is found eligible, the division shall pay the reasonable cost of the care **covered under IC 12-16-3.5-1 or IC 12-16-3.5-2** to the ~~persons~~ **physicians** furnishing the ~~care,~~ **covered medical care and the transportation providers furnishing the covered transportation services**, subject to the limitations in IC 12-16-7.5.

(c) **If the person is found eligible, the payment for the covered hospital services and items covered under IC 12-16-3.5-1 or IC 12-16-3.5-2 shall be calculated using the office's applicable Medicaid fee-for-service reimbursement principles.**

Page 12, line 34, strike "necessary costs" and insert "reasonable cost".

Page 12, line 34, strike "or hospital".

Page 12, line 34, strike "for indigent".

Page 12, line 35, strike "patients." and insert "covered under IC 12-16-3.5-1 or IC 12-16-3.5-2."

Page 12, line 36, after "The" insert "reasonable".

Page 12, between lines 37 and 38, begin a new line block indented and insert:

**"(3) Hospital services and items covered under IC 12-16-3.5-1 or IC 12-16-3.5-2 using Medicaid fee-for-service reimbursement principles."**

Page 12, line 40, delete "Except as provided in section" and insert

**"(a) Payable claims shall be segregated by state fiscal year."**

**(b) For purposes of this chapter, IC 12-15-15-9, IC 12-15-15-9.5, and IC 12-16-14:**

**(1) a "payable claim" is a claim for payment for physician care, hospital care, or transportation services under this chapter:**

**(A) that includes, on forms prescribed by the division, all the information required for timely payment;**

**(B) that is for a period during which the person is determined to be financially and medically eligible for the hospital care for the indigent program; and**

**(C) for which the payment amounts for the care and services are determined by the division; and**

**(2) a physician, hospital, or transportation provider that submits a payable claim to the division is considered to have submitted the payable claim during the state fiscal year during which the division determined, initially or upon appeal, the amount to pay for the care and services comprising the payable claim.**

**(c) The division shall promptly determine the amount to pay for the care and services comprising a payable claim.**

SECTION 20. IC 12-16-7.5-3, AS ADDED BY P.L.120-2002, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) A payment made to a hospital physician or a transportation provider under the hospital care for the indigent program this chapter must be on a warrant drawn on the state hospital care for the indigent fund established by IC 12-16-14.**

**(b) A payment made to a hospital under this chapter shall be made under IC 12-15-15-9 and IC 12-15-15-9.5."**

Page 12, delete lines 41 through 42.

Page 13, delete lines 5 through 9, begin a new line block indented and insert:

**"(1) calculate for each county the total amount of payable claims submitted to the division during the state fiscal year attributable to:"**

Page 13, line 12, delete "and became in need" and insert ";".

Page 13, delete line 13.

Page 13, line 15, delete "and who became in need of medical care in" and insert ";" and".

Page 13, delete line 16.

Page 13, line 18, delete "and who became in need of" and insert ";".

Page 13, delete line 19, begin a new line double block indented and insert:

**"and whose medical condition that necessitated the care or service occurred in the county."**

Page 13, line 20, after "of" insert **"the amount of payable claims attributed to the county under"**.

Page 13, line 20, delete "for the county".

Page 13, line 22, delete "approved" and insert **"payable"**.

Page 13, line 22, delete "county:" and insert **"county under subdivision (1):"**.

Page 13, line 23, delete "approved" and insert **"payable"**.

Page 13, line 23, delete "for".

Page 13, line 24, delete "hospital admissions that occurred" and insert **"submitted"**.

Page 13, line 28, delete "emergency".

Page 13, line 29, delete "approved" and insert **"payable"**.

Page 13, delete lines 31 through 42.

Page 14, delete line 1, begin a new paragraph and insert:

**"(b) Before November 1 following the end of a state fiscal year, the division shall allocate the funds transferred to the state hospital care for the indigent fund under IC 12-16-14 during the**

**state fiscal year as required under the following STEPS:"**

Page 14, line 2, delete "received" and insert **"transferred by the county to the state hospital care for the indigent fund under IC 12-16-14 during the state fiscal year."**

Page 14, delete line 3.

Page 14, line 4, delete "claims approved during" and insert **"payable claims submitted to the division during the state fiscal year attributed"**.

Page 14, line 5, delete "the state fiscal year attributable".

Page 14, line 6, after "hospital" insert **"payable"**.

Page 14, line 7, after "physician" insert **"payable"**.

Page 14, line 7, delete "emergency".

Page 14, line 8, after "provider" insert **"payable"**.

Page 14, line 12, after "hospital" insert **"payable"**.

Page 14, line 14, delete "IC 12-15-20-2." and insert **"IC 12-15-20-2(8)(D)."**

Page 14, line 17, after "physician" insert **"payable"**.

Page 14, line 17, delete "emergency".

Page 14, line 17, after "provider" insert **"payable"**.

Page 14, between lines 19 and 20, begin a new paragraph and insert:

**"(c) The costs of administering the hospital care for the indigent program, including the processing of claims, shall be paid from the funds transferred to the state hospital care for the indigent fund."**

Page 14, delete lines 30 through 42, begin a new paragraph and insert:

**"SECTION 23. IC 12-16-7.5-7, AS ADDED BY P.L.120-2002, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The division and a county office are not responsible under the hospital care for the indigent program for the payment of any part of the costs of providing care in a hospital to an individual who is not either of the following:**

**(1) A citizen of the United States.**

**(2) A lawfully admitted alien.**

**SECTION 24. IC 12-16-7.5-8, AS ADDED BY P.L.120-2002, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The division and a county office are not liable for any part of the cost of care provided to an individual who has been determined to be a patient described in the rules adopted under IC 12-16-10.5**

**SECTION 25. IC 12-16-9.5-1, AS ADDED BY P.L.120-2002, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Notwithstanding any other provision of this article, the rate of payment for the services and materials provided by hospitals and physicians and transportation providers under the hospital care for the indigent program is the same rate as payment for the same type of services and materials under the rules adopted by the secretary under office for the fee-for-service Medicaid program."**

Delete page 15.

Page 16, delete lines 1 through 39.

Page 17, line 12, delete "and became in need" and insert ";".

Page 17, delete line 13.

Page 17, line 15, delete "and who became in need of medical care in the" and insert ";" and".

Page 17, delete line 16.

Page 17, line 18, delete "and who became in need of" and insert ";".

Page 17, delete line 19, begin a new line block indented and insert:

**"and whose medical condition that necessitated the care or service occurred in the county."**

Page 17, line 39, after "average" insert **"annual"**.

Page 17, line 39, after "of" insert **"payable"**.

Page 17, line 40, delete "approved under this article for emergency care" and insert **"attributed to the county under IC 12-16-7.5-4.5"**.

Page 17, line 41, delete "provided to patients".

Page 18, line 10, after "average" insert **"annual"**.

Page 18, line 10, after "of" insert **"payable"**.

Page 18, line 10, delete "approved under this article for" and insert **"attributed to the county under IC 12-16-7.5-4.5"**.



Page 18, line 11, delete "emergency care provided to patients".

Page 18, delete lines 39 through 42, begin a new paragraph and insert:

"SECTION 29. IC 12-17.7-1-0.5, AS ADDED BY P.L.120-2002, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 0.5. This article applies ~~after June 30, 2004~~ **at the beginning of the fiscal year described in IC 12-15-20-2(8)(F).**"

Page 19, delete lines 1 through 11.

Page 20, delete lines 10 through 15, begin a new line and insert: **"terminate upon:**

**(1) a revocation or nonrenewal of the demonstration waiver approved by the federal Centers for Medicare and Medicaid Services for purposes of implementing this article; or**

**(2) a determination by the office that there are not sufficient funds to adequately operate the program.**

SECTION 32. IC 12-17.7-9-2, AS ADDED BY P.L.283-2001, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. Upon termination of the uninsured parents program, all funds on deposit in the state uninsured parents program fund ~~including funds transferred to the fund under IC 12-16-14-1-6(2)~~, shall be used to pay expenses and other obligations of the program, as determined by the office. Any remaining funds attributable to taxes levied under IC 12-16-14-1(1) or allocated under IC 12-16-14-1(2) shall be transferred from the fund for use as the state's share of payments under ~~IC 12-15-15-9(h)~~. ~~Any remaining funds attributable to transfers from the Medicaid indigent care trust fund under IC 12-15-20-2(5) shall be transferred from the state uninsured parents program fund for use as the state's share of payments under IC 12-15-20-2(5)(D).~~ **IC 12-15-20-2(8)(G).**

SECTION 33. IC 12-17.8-1-0.5, AS ADDED BY P.L.120-2002, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 0.5. This article applies ~~after June 30, 2003~~ **at the beginning of the fiscal year described in IC 12-15-20-2(8)(F).**

SECTION 34. IC 12-17.8-1-1, AS AMENDED BY P.L.120-2002, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter applies ~~beginning July 1, 2004~~ **at the beginning of the fiscal year described in IC 12-15-20-2(8)(F).**

SECTION 35. IC 12-17.8-2-0.5, AS ADDED BY P.L.120-2002, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 0.5. This chapter applies ~~after June 30, 2004~~ **at the beginning of the fiscal year described in IC 12-15-20-2(8)(F).**

Page 20, line 25, delete "IC 12-15-20-2(5)." and insert **"IC 12-15-20-2(8)(F)".**

Page 20, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 38. IC 12-17.8-2-4, AS AMENDED BY P.L.120-2002, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Subject to subsections **(b) and (c)**, and ~~(d)~~, money in the state uninsured parents program fund at the end of a state fiscal year remains in the fund and does not revert to the state general fund.

**(b) For each state fiscal year beginning July 1, 2004, the office of Medicaid policy and planning established by IC 12-8-6-1 shall transfer from the state uninsured parents program fund an amount equal to the amount determined by multiplying thirty-five million dollars (\$35,000,000) by the federal medical assistance percentage for the state fiscal year. The transferred amount shall be used for Medicaid current obligations. The transfer may be made in a single payment or multiple payments throughout the state fiscal year.**

**(c) (b) At the end of a state fiscal year, the office shall do the following:**

**(1) Determine the sums on deposit in the state uninsured parents program fund.**

**(2) Calculate a reasonable estimate of the sums to be transferred to the state uninsured parents program fund during the next state fiscal year, taking into consideration the timing of the transfers.**

**(3) Calculate a reasonable estimate of the expenses to be paid by the program during the next state fiscal year, taking into consideration the likely number of enrollees in the program during the next state fiscal year.**

**(d) (c) If the amount on deposit in the state uninsured parents program fund at the end of a state fiscal year, combined with the estimated amount of transfers of funds into the fund during the next state fiscal year, exceeds the estimate of the expenses to be paid by the program during the next state fiscal year, then a sum equal to the excess amount:**

**(1) shall be transferred from the funds on deposit in the state uninsured parents program fund at the end of the state fiscal year to the Medicaid indigent care trust fund; for purposes of IC 12-15-20-2(5)(D); and**

**(2) shall be used to fund Medicaid add-ons payments to hospitals licensed under IC 16-21-2 under a methodology developed by the office.**

SECTION 39. IC 16-18-2-168, AS AMENDED BY P.L.44-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 168. (a) "Health records", for purposes of IC 16-39, means written, electronic, or printed information possessed **or maintained** by a provider concerning any diagnosis, treatment, or prognosis of the patient, **including such information maintained on microfiche, microfilm, or in an electronic or digital format.** The term includes mental health records and alcohol and drug abuse records.

(b) For purposes of IC 16-39-5-3(e), the term includes information that describes services provided to a patient and a provider's charges for services provided to a patient.

(c) The term does not include information concerning emergency ambulance services described in IC 16-31-2-11(d).

SECTION 40. IC 16-22-8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. A member of the governing board is entitled to receive ~~six hundred dollars (\$600) one thousand two hundred dollars (\$1,200)~~ each year and the member who is chairman of the board is entitled to receive an additional ~~three hundred dollars (\$300) six hundred dollars (\$600)~~ each year. These payments shall be made quarterly from funds appropriated for that purpose in the regular budget of the corporation.

SECTION 41. IC 16-22-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) The governing board shall by rule provide for regular meetings to be held at a designated interval throughout the year.

(b) The chairman or a majority of the members of the board may call a special meeting. The board shall by rule establish a procedure for calling special meetings. The board shall publish notice of a special meeting one (1) time, not less than twenty-four (24) hours before the time of the meeting, in two (2) ~~daily~~ newspapers of general circulation in the county in which the corporation is established.

(c) Regular and special meetings are open to the public.

SECTION 42. IC 16-22-8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. **(a)** The governing board shall hold the annual meeting the second Monday in January of each year. At the meeting, the board shall select from among the members a chairman **and vice chairman** and shall make the appointments of personnel provided under this chapter.

**(b) A vacancy occurs if the chairman or vice chairman of the board dies, resigns, changes residence from the county, or is impeached. If the office of chairman or vice chairman becomes vacant, the board shall select from among the members a successor chairman or vice chairman at the next meeting of the board.**

SECTION 43. IC 16-22-8-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) Not more than seven (7) days after the introduction of a proposed draft of an ordinance nor less than seven (7) days before the final passage of a proposed draft of an ordinance, the board shall publish a notice that the proposed ordinance is pending final action by the board. The notice shall be published one (1) time in two (2) ~~daily~~ newspapers that have a general circulation in the jurisdiction of the corporation. Notice of an ordinance establishing a budget shall be in accordance with the general law relating to budgets of first class cities.

(b) The notice must state the following:

- (1) The subject of the proposed ordinance.
- (2) The time and place of the hearing.
- (3) That the proposed draft of an ordinance is available for public inspection at the office of the board.

(c) The board may include in one (1) notice a reference to the subject matter of each draft of a pending ordinance for which notice has not been given.

(d) An ordinance is not invalid because the reference to the subject matter of the draft of an ordinance was inadequate if the reference is sufficient to advise the public of the general subject matter.

SECTION 44. IC 16-22-8-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The governing board shall appoint an executive director of the board who is qualified by education and experience to serve for a term of four (4) years unless sooner removed. The executive director is eligible for reappointment. **The executive director must be a resident of the county.**

(b) In addition to the duties as executive director of the board, the executive director acts as secretary of the board.

SECTION 45. IC 16-22-8-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 46. The board shall appoint a treasurer of the corporation to serve for a term of four (4) years unless sooner removed for cause. The treasurer shall give bond in the amount and with the conditions prescribed by the board and with surety approved by the board. All money payable to the corporation shall be paid to the treasurer and the treasurer shall deposit the money in accordance with Indiana law relating to the deposit of public funds by municipal corporations. However, if trust funds are received or managed under a trust indenture, the terms and conditions of the trust indenture shall be followed. **The treasurer must be a resident of the county.**

SECTION 46. IC 34-6-2-60 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 60. "Hospital medical record", for purposes of IC 34-43-1, means the hospital's clinical record maintained on each hospital patient **as provided in IC 16-18-2-168.**

Page 20, line 40, after "IC 12-16-7.5-4;" insert "IC 12-16-7.5-6; IC 12-16-7.5-11;"

Page 21, line 2, after "IC 12-17.7-9-1;" insert "IC 12-17.8-1-2;"

Renumber all SECTIONS consecutively.

(Reference is to HB 1813 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 25, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1828, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 4, delete "-".

Page 1, strike lines 5 through 8.

Page 1, line 9, strike "(2)".

Page 1, line 10, delete "-".

Page 1, line 10, after "body;" strike "or".

Page 1, strike line 11.

Page 1, run in lines 4 and 12.

Page 1, line 12, reset in roman "Class C".

Page 1, line 12, after "Class C" delete "Class B".

Page 1, line 12, reset in roman "However, the offense is a Class B".

Page 1, reset in roman lines 13 through 14.

Page 1, between lines 14 and 15, begin a new paragraph and insert:

**"(b) A person who causes the death of another person when operating a motor vehicle:**

- (1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood;

or

**(B) two hundred ten (210) liters of the person's breath;**

or

**(2) while intoxicated; commits a Class B felony."**

Page 1, line 15, strike "(b)" and insert "(c)".

Page 1, line 15, after "(a)" insert "or (b)".

Page 1, line 17, delete "." and insert "or (b)".

Page 2, line 1, strike "(c)" and insert "(d)".

Page 2, line 1, strike "(a)(2)" and insert "(a)".

(Reference is to HB 1828 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

WEINZAPFEL, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1837, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Page 1, line 4, delete "(described in)".

Page 1, line 5, delete "460 IAC 6)".

Page 1, line 5, after "disability" insert **"(described in 460 IAC 6)".**

Page 1, line 6, delete "-" and insert **"two and five tenths percent (2.5%) of all service revenue included on the annual plan of care excluding resident living allowances."**

Page 1, delete lines 7 through 10.

Page 2, line 3, before "assessment" insert **"certification and quality assurance"**.

Page 2, line 3, delete "Money in the community services".

Page 2, delete line 4.

Page 2, line 5, delete "described in this section".

Page 2, line 6, delete "services for which federal financial participation under" and insert **"the funding of licensing, certification, and quality assurance services. The aggregate amount of the fee may not exceed the state's estimated cost of operating the programs."**

Page 2, delete lines 7 through 13.

(Reference is to HB 1837 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 23, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1880, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 28, nays 0.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1882, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 15-5-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. If a dog, without provocation, bites any person who is peaceably conducting himself in any place where ~~he~~ **the person** may be required to go or has the

**authority** to go for the purpose of discharging any duty imposed upon ~~him the person~~ by the laws ~~or regulations~~ of this state, ~~or by~~ the laws or ~~postal~~ regulations of the United States of America, ~~or the postal regulation of the United States of America~~, the owner of such dog may be ~~held liable~~ **subject to civil liability** for any damages suffered by the person bitten, regardless of the former viciousness of such dog or the owner's knowledge of such viciousness.

SECTION 2. IC 35-46-3-6, AS AMENDED BY P.L.76-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) This section does not apply to a violation of section 1 of this chapter.

(b) Any law enforcement officer or any other person having authority to impound animals who has probable cause to believe there has been a violation of this chapter ~~or IC 15-5-12-3~~ may take custody of the animal involved.

(c) The owner of an animal that has been impounded under this section may prevent disposition of the animal by an animal shelter that is caring for the animal by posting, not later than ten (10) days after the animal has been impounded, a bond with the court in an amount sufficient to provide for the animal's care and keeping for at least thirty (30) days, beginning from the date the animal was impounded. The owner may renew a bond by posting a new bond, in an amount sufficient to provide for the animal's care and keeping for at least an additional thirty (30) days, not later than ten (10) days after the expiration of the period for which a previous bond was posted. If a bond expires and is not renewed, the animal shelter may determine disposition of the animal, subject to court order. If the owner of an animal impounded under this section is convicted of an offense under this chapter, ~~or IC 15-5-12-3~~, the owner shall reimburse the animal shelter for the expense of the animal's care and keeping. If the owner has paid a bond under this subsection, the animal shelter may euthanize an animal if a veterinarian determines that an animal is suffering extreme pain.

(d) If the owner requests, the court having jurisdiction of criminal charges filed under this chapter ~~or IC 15-5-12~~ shall hold a hearing to determine whether probable cause exists to believe that a violation of this chapter ~~or IC 15-5-12~~ has occurred. If the court determines that probable cause does not exist, the court shall order the animal returned to its owner, and the return of any bond posted by its owner.

(e) This subsection applies only to livestock animals. Whenever charges are filed under this chapter, the court shall appoint the state veterinarian under IC 15-2.1-2-50 or the state veterinarian's designee to:

- (1) investigate the condition of the animal and the circumstances relating to the animal's condition; and
- (2) make a recommendation to the court under subsection (f) regarding the confiscation of the animal.

(f) The state veterinarian or the state veterinarian's designee who is appointed under subsection (e) shall do the following:

- (1) Make a recommendation to the court concerning whether confiscation is necessary to protect the safety and well-being of the animal.
- (2) If confiscation is recommended under subdivision (1), recommend a manner for handling the confiscation and disposition of the animal that is in the best interests of the animal.

The state veterinarian or the state veterinarian's designee who submits a recommendation under this subsection shall articulate to the court the reasons supporting the recommendation.

(g) The court:

- (1) shall give substantial weight to; and
- (2) may enter an order based upon;

a recommendation submitted under subsection (f).

(h) If a person is convicted of an offense under this chapter, ~~or IC 15-5-12~~, the court may impose the following additional penalties against the person:

- (1) A requirement that the person pay the costs of caring for an animal involved in the offenses that are incurred during a period of impoundment authorized under subsection (b).
- (2) An order terminating the person's right to possession, title, custody, or care of an animal that was involved in the offense.

(i) If a person's right to possession, title, custody, or care of an animal is terminated under subsection (h), the court may:

- (1) award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals; or
- (2) order the disposition of the animal as recommended under subsection (f).

SECTION 3. IC 35-46-3-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) Except as provided in subsection (b) and subject to section 16 of this chapter, an owner of a dog commits a Class C misdemeanor if the owner recklessly, knowingly, or intentionally fails to take reasonable steps to restrain the dog and:

- (1) the dog enters property other than the property of the dog's owner; and
- (2) as the result of the failure to restrain the dog, the dog bites or attacks another person, resulting in unprovoked bodily injury to the other person.

(b) The offense under subsection (a) is:

- (1) a Class B misdemeanor if the person has been convicted of one (1) previous unrelated violation of this section;
- (2) a Class A misdemeanor if:
  - (A) the person has been convicted of more than one (1) previous unrelated violation of this section; or
  - (B) the violation results in serious bodily injury to a person;
- (3) a Class D felony if the owner recklessly violates this section and the violation results in the death of a person; and
- (4) a Class C felony if the owner intentionally or knowingly violates this section and the violation results in the death of a person.

SECTION 4. IC 35-46-3-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) Except as provided in subsection (b) and subject to section 16 of this chapter, if a dog, without provocation, bites any person who is peaceably conducting himself in any place where the person may be required to go or has the authority to go for the purpose of discharging any duty imposed upon the person by the laws or regulations of this state, the laws or regulations of the United States of America, or the postal regulation of the United States of America, the owner of the dog commits a Class C misdemeanor, regardless of the former viciousness of the dog or the owner's knowledge of such viciousness.

(b) The offense under subsection (a) is:

- (1) a Class B misdemeanor if the dog owner has been convicted of one (1) previous unrelated violation of this section;
- (2) a Class A misdemeanor if:
  - (A) the dog owner has been convicted of more than one (1) previous unrelated violation of this section; or
  - (B) the violation results in serious bodily injury to a person;
- (3) a Class D felony if the dog owner recklessly violates this section and the violation results in the death of a person; and
- (4) a Class C felony if the dog owner intentionally or knowingly violates this section and the violation results in the death of a person.

SECTION 5. IC 35-46-3-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. An owner of a dog does not commit an offense under section 14 or section 15 of this chapter if:

- (1) the dog commits the act described in section 14 or section 15 of this chapter while owned by:
  - (A) the United States;
  - (B) an agency of the United States; or
  - (C) a governmental entity (as defined in IC 34-6-2-49); and while engaged in assisting the owner or the owner's

agent in the performance of law enforcement or military duties; or  
**(2) the dog bites a person while the person is committing a misdemeanor or felony.**

SECTION 6. IC 35-46-3-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 17. If a law enforcement officer or any other person having authority to impound animals has probable cause to believe that there has been a violation of section 14 or section 15 of this chapter, section 6 of this chapter applies.**

SECTION 7. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 15-5-12-3; IC 15-5-12-4; IC 15-5-12-5.

SECTION 8. [EFFECTIVE JULY 1, 2003] **IC 15-5-12-1, as amended by this act, applies only to causes of action arising after June 30, 2003.**

(Reference is to HB 1882 as introduced.)  
 and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 2.

L. LAWSON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1894, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 16 through 17, begin a new paragraph and insert:

**"Sec. 2. A payment made under this chapter does not finally discharge the person's liability and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit. The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk may collect a fee from the person using the bank or credit card. The fee is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter."**

Page 2, delete lines 1 through 6.

(Reference is to HB 1894 as introduced.)  
 and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

L. LAWSON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1895, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "This section applies to a county having a".

Page 1, delete lines 4 through 5.

Page 1, line 6, delete "(b)" and insert **"The investing officers of two (2) or more political subdivisions located within a county may establish a joint investment fund by entering into a written master agreement that defines the rights and obligations of the participating political subdivisions.**

**(b) An investing officer of a political subdivision that enters into a written master agreement under subsection (a) may pay funds that are held by the investing officer and that are available for investment into the joint investment fund.**

**(c) The fund shall be administered by a board, which must be comprised of the investing officer of each of the participating political subdivisions and which must be an instrumentality of the participating political subdivisions.**

Page 1, run in lines 3 and 6.

Page 1, line 13, delete "(c)" and insert "(d)".

Page 1, line 15, delete "(d) A joint investment fund is established by a written master" and insert "(e)".

Page 1, delete line 16.

Page 1, line 17, delete "participating political subdivisions. The" and insert "A".

Page 1, run in lines 15 and 17.

Page 1, line 17, after "agreement" insert **"under subsection (a)"**.

Page 2, line 2, delete "the" and insert "a".

Page 2, line 5, delete "the" and insert "a".

Page 2, line 8, after "of" delete "the" and insert "a".

Page 2, line 11, delete "The" and insert "A".

Page 2, line 15, after "of" delete "the" and insert "a".

Page 2, line 22, after "board of" delete "the" and insert "a".

Page 2, line 24, after "of" delete "the" and insert "a".

Page 3, line 5, after "of" delete "the" and insert "a".

Page 3, line 10, delete "the" and insert "a".

Page 3, line 21, after "of" delete "the" and insert "a".

Page 3, line 25, after "of" delete "the" and insert "a".

(Reference is to HB 1895 as introduced.)  
 and when so amended that said bill do pass.

Committee Vote: yeas 14, nays 0.

BARDON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1917, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 2 through 3.

Page 2, line 4, delete "3." and insert **"2."**

Page 2, line 7, delete "4." and insert **"3."**

Page 2, line 9, delete "5." and insert **"4."**

Page 2, delete lines 11 through 42.

Page 3, delete lines 1 through 28.

Page 3, line 29, delete "11." and insert **"5."**

Page 3, delete lines 35 through 42.

Page 4, delete lines 1 through 8.

Page 4, line 9, delete "(5)" and insert **"(2)"**.

Page 4, line 12, delete "12." and insert **"6."**

Page 4, line 13, delete "described in section 11(4) and 11(5)".

Page 4, line 14, delete "of this chapter".

Page 4, line 20, delete "13." and insert **"7."**

Page 4, line 29, delete "14." and insert **"8."**

Page 4, line 29, delete "13" and insert **"7"**.

Page 4, line 37, delete "15." and insert **"9."**

Page 4, line 38, delete "13" and insert **"7"**.

Page 5, line 4, delete "16." and insert **"10."**

Page 5, line 4, delete "13" and insert **"7"**.

(Reference is to HB 1917 as introduced.)  
 and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 3.

L. LAWSON, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1982, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 20, nays 3.

CRAWFORD, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1985, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 4.

Page 5, delete lines 1 through 4.

Page 5, line 8, delete "Public".

Page 5, line 8, after "Program" insert **"for Schools and Day Care Facilities"**.

Page 5, delete lines 17 through 42, begin a new paragraph and insert:

**"Sec. 3. As used in this chapter, "school or day care center" means any of the following:**

- (1) A public school.
- (2) A private day school.
- (3) A preschool.
- (4) A licensed day care center.
- (5) A day care home.

**Sec. 4. Subject to section 5 of this chapter, at least twenty-four (24) hours before a pesticide is applied in a building or on real property occupied by a school or day care center, the school or day care center must provide the parents or guardians of the children who attend or use the school or day care center with the following information:**

- (1) The date the pesticide will be applied.
- (2) The locations where the pesticide will be applied.

**Sec. 5. To receive information under section 4 of this chapter, a parent or guardian must submit a written request:**

- (1) to the school or day care center; and
- (2) that specifically states the parent or guardian wishes to receive the information."

Delete pages 6 through 7.

Renumber all SECTIONS consecutively.

(Reference is to HB 1985 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 1.

BOTTORFF, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures, to which was referred House Bill 2032, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 36-4-3-5, AS AMENDED BY P.L.224-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

- (A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or
- (B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(c) Except as provided in section 5.1 of this chapter, if the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be

served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(d) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

- (1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;
- (2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;
- (3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and
- (4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(e) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(f) In a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the court shall hear and determine the petition without a jury and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

- (1) essential city services and facilities are or can be made available to the residents of the territory sought to be annexed;
- (2) the city is physically and financially able to provide city services to the territory sought to be annexed; and
- (3) the territory sought to be annexed is contiguous to the city.

If the evidence does not establish all three (3) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

SECTION 2. IC 36-4-3-11, AS AMENDED BY P.L.224-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Except as provided in section 5.1(i) of this chapter and subsection (d), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by: (1) if the annexation is by a city in a county with a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000): (A) a majority of the owners of land in the annexed territory; or (B) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory; or (2) if the annexation is by a municipality that is not described in subdivision (1):

- (A) (1) at least sixty-five percent (65%) of the owners of land in the annexed territory; or
- (B) (2) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

SECTION 3. IC 36-4-3-13, AS AMENDED BY P.L.170-2002,

SECTION 144, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Except as provided in ~~subsections~~ **subsection** (e), and ~~(g)~~; at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

- (1) The requirements of either subsection (b) or (c).
- (2) The requirements of subsection (d).
- (b) The requirements of this subsection are met if the evidence establishes the following:

- (1) That the territory sought to be annexed is contiguous to the municipality.
- (2) One (1) of the following:
  - (A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.
  - (B) Sixty percent (60%) of the territory is subdivided.
  - (C) The territory is zoned for commercial, business, or industrial uses.

- (c) The requirements of this subsection are met if the evidence establishes the following:

- (1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.
- (2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

- (d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

- (1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.
- (2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.
- (3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.
- (4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.
- (5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria. ~~However, in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the fiscal plan of a city must show that these services will be provided to the annexed territory within four (4) years after the effective date of the annexation and in the same manner as those services are provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, or population density.~~

- (e) ~~This subsection does not apply to a city located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). At the hearing under section 12 of this chapter, the court shall do the following:~~

- (1) Consider evidence on the conditions listed in subdivision (2).
- (2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

- (i) Police and fire protection.
- (ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) One (1) of the following opposes the annexation:

- (i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.
- (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

- (f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

~~(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:~~

- ~~(1) Consider evidence on the conditions listed in subdivision (2).~~

- ~~(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:~~

~~(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:~~

- ~~(i) Police and fire protection.~~
- ~~(ii) Street and road maintenance.~~

~~(B) The annexation will have a significant financial impact on the residents or owners of land.~~

~~(C) One (1) of the following opposes the annexation:~~

- ~~(i) A majority of the owners of land in the territory proposed to be annexed.~~
- ~~(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.~~

~~Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.~~

- ~~(h) (g) The most recent:~~

- ~~(1) federal decennial census;~~
- ~~(2) federal special census;~~
- ~~(3) special tabulation; or~~
- ~~(4) corrected population count;~~

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

SECTION 4. IC 36-4-3-16, AS AMENDED BY P.L.217-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Within one (1) year after

the expiration of:

- (1) the one (1) year period for implementation of planned services of a noncapital nature under section 13(d)(4) of this chapter; **or**
- (2) the three (3) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter; **or**
- ~~(3) the four (4) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter by a city for annexed territory in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000);~~

any person who pays taxes on property located within the annexed territory may file a complaint alleging injury resulting from the failure of the municipality to implement the plan. The complaint must name the municipality as defendant and shall be filed with the circuit or superior court of the county in which the annexed territory is located.

(b) The court shall hear the case within sixty (60) days without a jury. In order to be granted relief, the plaintiff must establish one (1) of the following:

- (1) That the municipality has without justification failed to implement the plan required by section 13 of this chapter within the specific time limit for implementation after annexation.
- (2) That the municipality has not provided police protection, fire protection, sanitary sewers, and water for human consumption within the specific time limit for implementation, unless one (1) of these services is being provided by a separate taxing district or by a privately owned public utility.
- (3) That the annexed territory is not receiving governmental and proprietary services substantially equivalent in standard and scope to the services provided by the municipality to other areas of the municipality, regardless of topography, patterns of land use, and population density similar to the annexed territory.

(c) The court may:

- (1) grant an injunction prohibiting the collection of taxes levied by the municipality on the plaintiff's property located in the annexed territory;
- (2) award damages to the plaintiff not to exceed one and one-fourth (1 1/4) times the taxes collected by the municipality for the plaintiff's property located in the annexed territory;
- (3) order the annexed territory or any part of it to be disannexed from the municipality;
- (4) order the municipality to submit a revised fiscal plan for providing the services to the annexed territory within time limits set up by the court; or
- (5) grant any other appropriate relief.

(d) A change of venue from the county is not permitted for an action brought under this section.

(e) If the court finds for the plaintiff, the defendant shall pay all court costs and reasonable attorney's fees as approved by the court.

(f) The provisions of this chapter that apply to territory disannexed by other procedures apply to territory disannexed under this section.

(Reference is to HB 2032 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

PELATH, Chair

Report adopted.

## OTHER BUSINESS ON THE SPEAKER'S TABLE

### Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bills 1240, 1285, and 1761 had been referred to the Committee on Ways and Means.

### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House

Bill 1166, Roll Call 188, on February 25, 2003. In support of this petition, I submit the following reason:

"I was present, but unable to vote before the machine had closed. I intended to vote yea."

LEHE

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 188 to 97 yeas, 0 nays.*]

### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1402, Roll Call 86, on February 11, 2003. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the yea button when I intended to vote nay."

GOODIN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 86 to 65 yeas, 31 nays.*]

### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1684, Roll Call 228, on February 26, 2003. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the yea button when I intended to vote nay."

WEINZAPFEL

There being a constitutional majority voting in favor of the petition, the petition was adopted.

### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1684, Roll Call 228, on February 26, 2003. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the yea button when I intended to vote nay."

RESKE

There being a constitutional majority voting in favor of the petition, the petition was adopted.

### PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1684, Roll Call 228, on February 26, 2003. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the nay button when I intended to vote yea."

AUSTIN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: adoption of petitions to change votes on Engrossed House Bill 1684 changes the vote tally to 34 yeas, 63 nays.*]

### HOUSE MOTION

Mr. Speaker: I move that Representative Scholer be added as coauthor of House Bill 1196.

LYTLE

Motion prevailed.



HOUSE MOTION

Mr. Speaker: I move that Representative Whetstone be added as coauthor of House Bill 1202.

FRENZ

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Koch and Dickinson be added as coauthors of House Bill 1268.

ORENTLICHER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Bischoff, Kersey, and Pond be added as coauthors of House Bill 1375.

GIA QUINTA

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives T. Adams and Whetstone be added as coauthors of House Bill 1445.

RESKE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Aguilera be added as coauthor of House Bill 1465.

L. LAWSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Hasler be added as coauthor of House Bill 1569.

KERSEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Austin be added as coauthor of House Bill 1630.

WELCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives C. Brown, Becker, and Welch be added as coauthors of House Bill 1643.

HASLER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Kruse be added as coauthor of House Bill 1656.

BISCHOFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Scholer be added as coauthor of House Bill 1718.

KLINKER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ripley be added as coauthor of House Bill 1749.

FRY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Saunders be removed as author of House Bill 1832, Representative Klinker be substituted as author, and Representative Saunders be added as coauthor.

SAUNDERS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Stutzman be added as coauthor of House Bill 1878.

DUNCAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thompson be added as coauthor of House Bill 1880.

PIERCE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Leonard be added as coauthor of House Bill 1917.

V. SMITH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Whetstone be added as coauthor of House Bill 2009.

CRAWFORD

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Harris, the House adjourned at 4:20 p.m., this twenty-sixth day of February, 2003, until Thursday, February 27, 2003, at 10:30 a.m.

B. PATRICK BAUER

Speaker of the House of Representatives

DIANE MASARIU CARTER

Principal Clerk of the House of Representatives